

Studies in Medieval History and Culture

WOMEN AND VIOLENCE IN THE LATE MEDIEVAL MEDITERRANEAN, CA. 1100–1500

Edited by

Lidia L. Zanetti Domingues,
Lorenzo Caravaggi, and Giulia M. Paoletti



Women and Violence in the Late Medieval Mediterranean, ca. 1100–1500

This pioneering work explores the theme of women and violence in the late medieval Mediterranean, bringing together medievalists of different specialties and methodologies to offer readers an updated outline of how different disciplines can contribute to the study of gender-based violence in medieval times.

Building on the contributions of the social sciences, and in particular feminist criminology, the book analyses the rich theme of women and violence in its full spectrum, including both violence committed against women and violence perpetrated by women themselves, in order to show how medieval assumptions postulated a tight connection between the two. Violent crime, verbal offences, war, and peace-making are among the themes approached by the book, which assesses to what extent coexisting elaborations on the relationship between femininity and violence in the Mediterranean were conflicting or collaborating. Geographical regions explored include Western Europe, Byzantium, and the Islamic world.

This multidisciplinary book will appeal to scholars and students of history, literature, gender studies, and legal studies.

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**Edited by Lidia L. Zanetti Domingues,
Lorenzo Caravaggi, and
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We incurred a debt of gratitude towards even more people and institutions when we embarked in the process of publishing the proceedings. The team at Routledge, and our editors in particular, have been extremely professional and supportive, something that we especially appreciated as the preparation of this volume happened over the course of a global sanitary crisis, which obviously affected the lives and works of all the contributors to this volume. Support from the Past and Present Society was also fundamental to cover extra costs related to the publication. We were lucky enough to be able to count on the advice and encouragement of many brilliant academics who acted as readers, peer-reviewers or mentors to us while we were putting together this volume. We are grateful to Chris Wickham, Piroska Nagy, Daniel L. Smail, Trevor Dean, Benjamin Deruelle, Marc Lauxtermann, Andreas Rhoby, Gianluca Raccagni, Catherine Holmes, Alice Taylor, Olivier Delouis, Alex Vukovic, Oren Margolis, Elizabeth Robertson, Judith Herrin, Hannah Skoda, Gervase Rosser, Miri Rubin, John Drendel, Leonora Neville, John Arnold, and Michael Featherstone. Jonathan Krause has played a vital role as a proofreader, and has managed to work effectively with scholars coming from a variety of linguistic and cultural backgrounds.

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Introduction

Medieval and modern gender-based violence

*Lidia L. Zanetti Domingues, Lorenzo Caravaggi,
and Giulia M. Paoletti*

Several reasons stand behind the choice of analysing the theme of ‘Women and Violence in the late Medieval Mediterranean’ through an edited volume. The starting point is that the last decades have witnessed an increased interest in research concerning the relationship of women and violence in the Middle Ages, with new contributions focusing both on female criminality and violence on women. This engendered, therefore, a desire to contribute to the study of late medieval Mediterranean societies by bringing together the different strands of research on this topic, for which new methodological approaches rooted in the social sciences offer a compelling perspective. This study also aims to provide context for contemporary efforts towards social change regarding gender-based violence. The original conference from which this volume originates held at the Maison Française d’Oxford on the 27th–28th of September 2019, was made possible through the generous support of Maison Française d’Oxford, TORCH, the Oxford Medieval Studies and *CNRS-UMR Orient et Méditerranée*. The proceedings we are hereby publishing represent a selection of the best papers delivered during the two-day conference. They cover a wide range of topics around assumptions concerning the links between women and violence in its full spectrum; that is to say, both violence committed against them and by them. In order to foster a wide-ranging discussion and facilitate a series of comparisons this volume covers a broad time span and geographic area, addressing late-medieval Mediterranean (1100–1500) across Latin Christendom, the Byzantine ‘commonwealth’ and the Islamic world.

Medieval studies and gender-based violence: present outcomes and future perspectives

In the last few decades, the study of ‘medieval women’ has moved from an exclusive focus on family, marriage, sexuality, motherhood, chastity, and religious life towards new research horizons. In particular, gender historians have begun to investigate areas previously seen as dominated by males. Particular attention has been dedicated to work and economic activity. As has been demonstrated for many different late-medieval societies, women were employed in a variety of trades (although often in the lower end) and participated actively in local credit networks.¹ Legal sources – and, in particular, judiciary documents – have turned

out to be particularly well suited to the study of women's everyday realities right across the socio-economic spectrum. As such, these judicial sources play a central role in most of this volume's chapters. Many recent studies have pointed out that despite the subordination of women theorised in different legal systems, they were not always constrained by the law. On the contrary, women of different social classes engaged actively in judicial action in order to seek redress for causes ranging from civil matters to debt litigation, trespassing, and different forms of violence (for which, see below).² As Thomas Kuehn has put it, the 'cultural expressions of misogyny (in contemporary treatises, laws, and other sources) seem almost a language of protest against the realities of the market and streets'.³ In turn, this has also led to an ongoing debate on the changing condition of women in the late-medieval and early-modern periods.⁴

More generally, these new approaches have been part of a growing understanding of medieval legal records not simply as prescriptive and descriptive sources of how society should function but, rather, as documents which make it possible to study social practices and the ways in which the law was understood, appropriated, and employed.⁵ In turn, this has also contributed to the history of criminal justice – a vibrant field of study which developed in the course of the 1970s. In particular, the study of violence in medieval societies has recently been profoundly reconsidered. Until not too long ago, violence was perceived as a disruption of the social order guaranteed (at least in theory) by the rule of law and pursued by rising state apparatuses. The main narrative held that the propensity for violence of medieval people was a result of their inability to suppress their emotions.⁶ In turn, historians held that the high levels of violence registered in medieval records (a result of quantitative and statistical approaches to the documentation – derived from contemporary sociological and criminological methods) resulted in inevitable social disruption, itself a consequence of the inefficacy and weakness of late-medieval governments.⁷ Such a negative view has been recently challenged thanks to the influence of legal and social anthropology on conflict studies in historical societies,⁸ and to a change of paradigm in the debate on the origins, rise, and development of the modern state. Socio-political and legal pluralism have been understood as characteristics of late-medieval polities for some time.⁹ Therefore, it has been recognised that conflict and violence were part of this multifaceted world, and were one of many different tools through which contemporaries defended and negotiated their status and power. Violence was a complex and ambivalent phenomenon, which was manifested in different ways and elicited different (and often discordant) social, legal, ethical, and religious reactions.¹⁰ These same studies have also pointed out that medieval societies were not irremediably violent and chaotic: conflict often followed a precise logic and was governed by a set of rules (whether normative or customary) which gave structure to political action and social relations.¹¹ Moreover, at least within Christian Europe, it has been pointed out that the pervasiveness of this 'culture of violence' was counterbalanced by an overwhelming desire for peace: this became particularly prominent from the thirteenth century onwards, thanks to a widespread religious reawakening and to the foundation of the Mendicant Orders, whose friars

preached about the importance of reconciliation and forgiveness across Christendom.¹² Hence, a growing number of studies have pointed out the central role of reconciliation within judicial systems.¹³

Following these new historiographical trends, in the last few decades, an increasing number of studies have appeared on the relationship between women and violence in medieval Europe and the Mediterranean. Generally speaking, this has been mostly limited to the study of women as victims of domestic abuse and sexual assaults. Some of these studies have recently shown that while women were in a disadvantaged position, they could nonetheless use existing legal and ethical frameworks to their own advantage in order to seek redress.¹⁴ As mentioned, a similar argument has also been made for the use of the law courts more generally, as historians have pointed out that women had recourse to the courts for a variety of civil and criminal causes, such as theft, debt-litigation, trespassing, and other forms of judicial action.¹⁵ At the same time, other studies have shown that women also appeared as perpetrators of violence in a substantial number of cases, both against other women and against men.¹⁶ In turn, this has generated interest in the ways in which adjudicating authorities treated violent crimes committed by women – a more general aspect explored by feminist criminology from the 1970s onwards (discussed below). Some of the essays included in this collection contribute to this theme, and show how women under trial employed gendered categories of thought in order to defend their actions. Another aspect of conflict studies which has begun to be explored is the role of women in peace-making, especially in Christian Europe.¹⁷

Despite these studies, the analysis of the relationship between women and violence is still young, and there is ample room for research in a number of areas. For example, while it has been acknowledged that women participated actively in interpersonal violence, their role in feuds and vendettas – a key social practice in many Mediterranean ‘revenge societies’ – has been almost completely disregarded.¹⁸ Yet careful analysis of late-medieval court records has actually shown that (lower-class) women were often part of complex local networks of friendship and enmity which could lead to disputing and violent conflicts.¹⁹ Another theme which demands for further studies is the role of women in all aspects of warfare (from spurring menfolk to arms, to actual fighting, and mediation) – something which the present volume will contribute to directly.

Moreover, while in this period, the same (or similar) legal, ethical, medical, and religious gendered categorisations were shared across borders and different regions, as Patricia Skinner has remarked, women should not be analysed as a unitary and cohesive historical group.²⁰ For example, as Teresa Phipps has recently noted in her study of women’s judicial activity in three different late-medieval English towns, there was no ‘typical’ in defining women’s experiences of the law. A similar argument could also be made for the engagement of women with violence (an area in which the law was a central – but, by no means, the only – element at play) in an area as diverse (although internally connected) as the Mediterranean. By offering a series of case studies ranging from Iberia to Constantinople, this collection fully upholds the need for comparative analysis, and will, therefore,

make an important contribution to the field. This will be especially important as the majority of studies on this theme have focused on Christian Europe and have disregarded Byzantium and, in particular, the Islamic world. More generally, the theme of conflict and violence in the Islamic world has received less historiographical attention.

Finally, while as has been remarked, in the last few decades, the thorough analysis of court and other legal records have been an excellent source for the study of violence (and its gendered connotations), these are by no means the only available documents for the study of a theme as rich, multifaceted, and complex as that of the relationship between women and violence. Poems, chronicles, treatises, medical compendia, and other literary and intellectual texts were often, but not always, written by men and are therefore more removed from the ‘original voices’ of women (although one should be wary of the extent to which judicial documents can be trusted in that regard). Nevertheless, these still offer a precious contribution, as they may reveal patriarchal expectations of women’s behaviour, which may then be compared to the reality which emerges from other categories of documentation, and which may then be studied in a transnational and diachronic framework.

Recent decades have also seen an increase of gender studies in Byzantine scholarship, a topic that was previously overlooked. In the words of Herrin, ‘early studies ignored women unless they caught the attention of chroniclers, usually for inappropriate behaviour’.²¹ This lack of interest in gender studies was justified by Herrin by arguing that devotion to the classical word impaired the view on what follows, which was therefore seen as just a ‘dark medieval age’. This might be partly true; yet another problem relies on the lack of primary sources on the topic, which, when they exist, were written by men. Besides Herrin’s works, which gave the impetus to these studies – e.g. the ESF project: *Gender and Religion* – few other scholars turned their attention to gender issues in Late Antiquity and Byzantium.²² However, in these works the topic of violence is rarely touched upon. Dossey’s informative paper draws attention to the different attitude towards violence against women in the Eastern and Roman Empire, by pointing out that domestic violence was not only widely accepted in Imperial Rome but also somehow praised,²³ whilst in the Justinian era we witness lenient penalties for men’s perpetration of violence. What caused much confusion in dealing with matters such as rape, adultery, and sexual offences, is the fact that for early Roman Law, sexual crimes were equally condemned, with no distinction between the gravity of such crimes – which is to say, rape was equalled to adultery.²⁴ Things slightly changed in the later Empire, yet women still seem to be widely objectified, with the ultimate aim of enabling forceful violence.²⁵

‘Men ought to act like good men, and women like good women’.²⁶ To defend themselves, to prevent sexual crimes from happening or to avenge themselves, women had to ‘become men’ (ἀνδρίζομαι).²⁷ In our understanding of women rights and role in Byzantine society, historiography is of little or no avail: most of the sources are written from a masculine perspective, therefore significantly impairing our judgement. Procopius’ description of Theodora is a good example: she is described in light of her covetousness (e.g. Procopius’ description of Theodora), her cunningness, her doubted morality. Yet again, as Brubaker argues, his invective

‘is not directed at the woman it slanders but rather challenged through her against a powerful male’.²⁸ In contrast with this, hagiographical writings offer a different perspective, depicting extremely strong women, ‘brave enough’ to leave or escape from abusive men.²⁹ Even so, the ‘traditional’ Byzantine view of women can be easily detected between the lines. A thorough discussion of women in hagiographical writings, with a strong focus on sexual crimes is offered by Betancourt.³⁰

We hardly have any evidence relating to Byzantine trials or juridical issues, and even less material on violence perpetrated by and against women. While violence in Byzantium is a topic explored by a few scholars,³¹ there is no thorough study that expressly addresses women and violence. The influence that women exercised in Byzantium, however, was unusually significant, compared to early Medieval Europe and the rising Islamic state.³²

There are, as of yet, no comparative studies between the Byzantine world and the Islamic state regarding violence and women. It seems that, just as in Imperial Rome, violence on women was an accepted social norm in Medieval Europe,³³ and the same holds true for the Islamic State. The Quran allows husbands to beat their wives to punish or educate them, while also warning men not to abuse their power. For the same reason, husbands could divorce women at their will, though it seems divorces were rarely a one-sided thing.³⁴ There are several notable works on women’s role in the Islamic State,³⁵ there are hardly any on women and violence. Gendered studies generally focus on their role inside the family, and their economic activities.

In many of the works on gender-based violence in medieval societies, there is a clear echo of the renewed debate on the value of historical studies in better understanding, and addressing, contemporary issues. This discussion has deep roots in modern historiography,³⁶ but the state of academic research after the 2008 economic crisis seems to have intensified the need for historians, especially those who work on the distant past, to justify their research efforts. Generally speaking, arguments justifying historical research have not hinged on claims of their profitability or contribution to economic innovation, but rather privilege the ‘relevance’³⁷ of historical studies in discussions about current scientific and social issues. A number of avenues to enhance this relevance have been highlighted by recent studies. Scholars have reconsidered the nature of the relationship between past and present. They have generally concluded that ‘a total disconnect between two historically connected cultures’ is rarely possible,³⁸ but also that the past has enough fundamental differences with the present to rarely be able to offer readily applicable solutions to modern issues. They have therefore proposed the identification of structural analogies or ruptures between historical periods as a means to highlight the culturally constructed nature of customs and institutions. Others have pleaded for the necessity of an *histoire engagée* that gives voice to past marginalised communities in order to promote a higher level of emancipation in society.³⁹ Some proposals, additionally, have focussed on what medieval studies has specifically to offer compared to the study of other past eras. The particularly ‘alien qualities’ often attributed to the Middle Ages compared to antiquity or modernity, for instance, could be used by researchers and their audiences to stimulate the ability to imagine positive alternatives to current practices and

attitudes.⁴⁰ The distance in time between us and the Middle Ages could also promote an analysis of long-term social dynamics, in contrast with a modernity that is obsessively focused on short-term perspectives.⁴¹

Ultimately, the most solid proposals springing from this transnational discussion have in common their call for a rapprochement of history and the social sciences, following an approach rooted in the legacy of the *Annales* school.⁴² Historical research might indeed benefit not just from a close dialogue with the social sciences, but more specifically from reconfiguring history as a social science itself, one that centres on diachronic processes:⁴³ or, as Bloch proposed, ‘la science des hommes dans le temps’.⁴⁴ An example of the value of such an approach for the study of gendered violence in the Middle Ages is Kienzle and Nienhuis’ work examining the medieval origins of certain cultural and religious beliefs that serve to excuse violence against women, and work against survivors’ attempts to find safety in contemporary societies.⁴⁵ Their volume effectively combined the study of medieval history and feminist approaches to criminology, social sciences, and theology in order to contribute to providing more context for contemporary effort towards social change. Research of this type can not only advance historical knowledge, but also respond to requests from social science researchers for an increased dialogue with history and historians on topics such as gendered violence, with the aim of providing more multi-layered readings of the phenomenon.⁴⁶ History, as demonstrated by these requests and by the works that respond to them, can not only fruitfully tap into the methodology of other disciplines to produce relevant knowledge, but can also feed those disciplines back by providing them with equally useful new concepts, theorisations, and analytical tools.

Our approach and methodology

This book follows this path of rapprochement and knowledge exchange by adopting an analytical framework that incorporates methodological suggestions from two theoretical traditions of the social sciences in particular. The first is feminist criminology, especially in its intersectional variety. This approach was born in the 1970s with the aim of shedding light on the heavily gendered nature of contemporary scholarly reflections about violence and violent crimes, which were conceptualised as essentially masculine behaviours.⁴⁷ Feminist criminology has highlighted differences in both offense and victimisation between men and women.⁴⁸ In particular, the strong association of women with victimhood in modern Western society makes it harder to conceive of them as criminals, so that the phenomenon of female crime is often labelled as peripheral. This phenomenon partially explains persistent sentencing disparities in favour of female defendants.⁴⁹ At the same time, however, the most egregious female offenders are seen as having failed to uphold societal standards of proper femininity, which include passivity, subservience, and purity, so that their actions are often stigmatised and punished more harshly than those of men’s.⁵⁰

The paradoxical way in which women are treated by existing justice systems calls for an analysis of the gendered nature of both offending and victimisation.

This collection addresses the need for a gendered analysis of justice by exploring the relationship of women to violence across its full spectrum, including both violence committed against women and violence perpetrated by women themselves. These two phenomena are deeply interwoven. Female offenders are often perceived first of all as victims, due to how frequently these women have histories of abuse compared to male counterparts. This is borne out across a significant number of studies.⁵¹ Besides this, the rationale for the broad-based approach of this book lies in the wider suggestion of feminist social sciences that victimization and criminality are often gendered on the basis of the same assumptions, which therefore need to be studied in all the contexts of their existence for their role to be fully understood in present as well as in past societies.⁵² Since, however, women's experiences are different on account of their social class, religion, ethnicity, and other identity markers than gender alone, the insights of intersectional feminism will be taken into account in this collection. The complex ways in which various identity markers interact with gender in the shaping of assumptions linking femininity and violence will therefore play a prominent role in the papers constituting this work, as well as in its overarching structure.

The second theoretical tradition incorporated in the framework of this book is a combination of constructionism and interactionism. These approaches highlight the role of social interactions and communication between members of a given community in creating shared assumptions about reality.⁵³ These findings are relevant for the study of violence and violent crime in a number of ways. First of all, they underline how societal ideas about what violence is, and what can be considered as violent, are shaped by the interaction (face-to-face or through any type of media) between a society's members.⁵⁴ Every society thus produces different discourses on violence, which give different meanings to the concept and constitute overarching argumentative frameworks for talking about it.⁵⁵ Researchers have proposed that members of societies also assign different roles, or labels,⁵⁶ to people in relationship to violence, so that certain social categories become considered as more or less inclined to commit violence. This categorisation informs, and is informed by, societal perceptions around legitimate and illegitimate violence. Law and social policy, therefore, are closely tied to these discourses, and social scientists have often underlined the large role that assumptions based on gender play in their shaping.⁵⁷ The reconstruction of the history of labels and assumptions linking women to violence in the past, and their relationship with those labels and assumptions that persist today, is exactly one of the areas in which criminologists, sociologists and feminist theorists have asked for the collaboration of historians.

This volume responds to the call for more interdisciplinary work by focusing precisely on the above assumptions and the discourses they belong to. It aims to reconstruct what situations the inhabitants of the late medieval Mediterranean saw as typical *loci* to observe the relationship between women and violence in their society; how women who found themselves in these situations were labelled; and in particular whether they were seen as victims, offenders, legitimate users of violence or a combination of these three possibilities. In order

for this aim to be achieved, the contributions in this book share a common definition of violence stemming from an emic perspective, that is, all forms of physical attack to the integrity of the body and of verbal attack to an individual's reputation.⁵⁸ It is the conviction of the editors that concepts such as 'social discourse' and 'assumption' can be particularly conducive to advancing our knowledge on the relationship between violence, thus defined, and medieval Mediterranean women.⁵⁹ Discourses are sets of representations, statements, or assumptions (as they will be defined throughout this book), which together produce a particular version of a phenomenon.⁶⁰ Not all aspects of the constructionist concept of discourse, however, will be maintained here. For example, the idea that the things people do or say can never be a function of their individual opinions or personalities, but always a manifestation of societal discourses will be rejected.⁶¹ A strength of this methodological tool is, however, the intimate connection of discourses to the socio-economic (and legal, we would add) reality in which they emerge, as well as their fundamental implications for the promotion of different policies dealing with issues of gendered violence.⁶² Positing the existence of some predominant discourses on women and violence in the late medieval Mediterranean, therefore, requires researchers to never lose track of the socio-economic and legal positions of women in the societies considered here, thus avoiding the risk of seeing culture as abstracted from the conditions of lived experience in a given community.⁶³

The geographical and chronological focus of this volume is the Mediterranean and its surrounding territories and polities in the late medieval period (c. 1100–1500). The use of these two terms – Mediterranean and late Middle Ages – require some conceptual clarifications. While the Mediterranean Sea has long played a part in the historical, literary, and geographical imagination of the peoples who inhabit this region, in the second half of the twentieth century, its use as a category of historical analysis has raised criticism, in part because of its artificiality and some conceptual links with European imperialism.⁶⁴ Thanks, however, to the global turn of recent years, the Mediterranean has, once again, become an area deemed worthy of historical, sociological, anthropological, and ethnographic study.⁶⁵ As many studies have pointed out, this region – whose boundaries are only loosely defined and subjected to continuous contraction and expansion – has been characterised by a remarkable degree of connectivity and exchange, making it an ideal case study for comparative research.⁶⁶ In turn, the idea that seas (or deserts) acted not as dividers, but as connecting points for transnational networks may also be applied to other world regions, thereby challenging the idea that the Mediterranean was exceptional.

This interconnectivity was not only limited to economic interactions and the circulation of goods masterminded by merchant-bankers, but also included the spreading, reception, and retransformation of medical, philosophical, and legal thought and ideas across geographical, cultural, linguistic and religious boundaries.⁶⁷ Contact and exchange were the consequence of commercial and cooperative relationships between different polities and cultures, but also of conflict and warfare. Two developments which were particularly important for gendered

categorisations of violence in many different regions of the Mediterranean were the progressive rediscovery and systematisation of Roman law at Bologna and other important *Studia* from the twelfth century onwards,⁶⁸ and the translation and circulation of Galenic medical thought by intellectuals such as Avicenna and Averroes, whose works were circulated around Western Europe from the late twelfth and thirteenth century onwards.⁶⁹ One of the aims of this book is to see how similar ideas were transformed and negotiated throughout the Mediterranean basin. In turn, therefore, the structure and themes of this volume will also be useful to global historians of the middle ages and beyond. Indeed, the contributions have here been grouped together thematically, and not geographically or chronologically, in order to encourage a broad reading across the region, following an approach employed in recent studies.⁷⁰ In addition, some contributions – such as, in particular, the discussion of warlike women in epics by Nina Soleymani Majd – have adopted a ‘combinative’ (and not merely comparative) perspective, bringing into dialogue French, Byzantine, and Persian literature.

By focusing on a broad geographical area, the present book does not intend to determine whether the Mediterranean was a singular and coherent socio-cultural space⁷¹ – although the contribution included here will indirectly serve to engage with this ongoing debate. Nor do we intend to present the Mediterranean as a static and ‘timeless’ area. On the contrary, between the thirteenth and sixteenth century, the geopolitical landscape of this vast area experienced enormous changes and deep transformations. The most obvious was the demise of the Eastern Roman Empire (or Byzantium). If shortly before the beginning of the period under analysis here, this was arguably the most powerful and sophisticated polity of this part of the world. Byzantium necessarily played a major role in Mediterranean societies, cultures and history that outlived the empire itself; many of its structures and institutions were upheld and reused by the Ottomans. Therefore, the present volume will also account for diachronic change, both within the same polities and across this region. For example, the essay by Philippa Byrne will show how the legislation on women in Sicily – an island at the heart of the Mediterranean with a complex and stratified history – underwent important changes from the twelfth to the thirteenth centuries. The period between the thirteenth and sixteenth centuries was, more generally, one of huge social, legal, political, and intellectual transformations throughout Europe and the Mediterranean basin. Since no single part of the Mediterranean world achieved hegemonic status over the others – as has also been observed for the global Middle Ages more generally⁷² – this geographical and chronological framework will serve as an ideal case study for the analysis of a topic as rich, complex, and diverse as the relationship between women and violence. As a final caveat, our choice to employ the term ‘medieval’ arises from convention, but is not aimed at imposing an Eurocentric model over the rest of this vast and diverse region.⁷³ While a substantial part of this volume covers more traditional western European areas (even if discussing a topic which, as has been explained, has received little historiographical attention until very recently), we have made a serious effort to include contributions on women and violence in Byzantium and beyond.

Women and violence in the medieval Mediterranean: questions of relevance

The Middle Ages emerge in this volume as an indispensable link in the long-term social dynamics of gendered violence in Mediterranean area, a link that cannot be ignored to understand later developments. In the period analysed here, we see deeply embedded assumptions surrounding women and violence that have parallels with the present day. Soleymani Majd and Lau underline the ambiguous treatment of female users of violence in a variety of Mediterranean societies, although their contributions, as well as Malamut's, point to a greater openness to recognising their agency in the Byzantine and Islamic world in comparison with Latin Europe. As other scholars have also pointed out,⁷⁴ thus, violent women in the Medieval Mediterranean could be seen as egregious offenders and be treated with particular harshness, just like nowadays. This similarity in some of these assumptions across the centuries is obviously not to suggest that they are 'natural' or permanent. Our contributions show how, much to the contrary, they were rooted in religious beliefs, and political configurations or family structures that emerged or evolved in the Middle Ages and had an important role in shaping Mediterranean societies in the *longue durée*. It is exactly because of the contingent character of these assumptions that medieval women in the Mediterranean could employ their knowledge of the structures of their own society to adapt them and make space for their own agency.

The fact that groups oppressed on the basis of their sex, ethnicity, or social class were also able to express their agency in past societies is not a new finding. In particular, the fact that, contrary to stereotypes, women are not victims by nature, and never have been, has been reaffirmed by recent works focusing on women's agency in pre-modern society.⁷⁵ This collection reflects this important result, while at the same time cautioning researchers against interpreting it as a way of invalidating the weight of deep-rooted assumptions on women and violence in the past and in the present. The potential risk of such an approach, we believe, is that of transforming gendered violence in an individual issue instead of a political one.

Moreover, this volume also aims to go beyond a discussion of women's agency by reflecting more broadly on the discourses linking violence and femininity. Our contributions shed light on significant differences in modern and medieval assumptions underpinning these discourses: the role of Corsican aristocratic women in practices of vendetta described in Arrighi's contribution, and the framing of abortion and infanticide as not-exclusively feminine crimes in Byzantium underlined by Novasio, both point in this direction. This volume depicts therefore a complex landscape of differences and similarities in past and present discourses on women and violence. This highlights how their development is not a straightforward and irresistible process. Assumptions shared by several societies can at any point take different directions in each of them, as well as disappearing completely or resurfacing at later stages.⁷⁶ Parallels with the construction, maintenance and collapse of discourses of authority are clearly noticeable;⁷⁷ something which is unsurprising, since having one's use of violence recognised as legitimate is often a fundamental

component in establishing one's authority.⁷⁸ In this book, therefore, assumptions connecting women and violence are analysed in parallel with other social constructions that gave authority to certain groups and denied it to others. In particular, this means forms of authority connected to the legitimate use of violence, such as the famous high-medieval distinction of society into three orders: Fighters (aristocrats whom maintained a monopoly on the use of force), Prayers (members of religious orders), and Workers (generally agricultural workers). Authority was indeed not just based on gender, but also, importantly, on socioeconomic and political differentiations. As a number of papers in this collection highlight, social class could be more important than gender in determining what was considered as an individual's appropriate relationship to violence.

The ebb and flow in discourses on women and violence highlighted above is thus firmly placed within the social context in which women lived and within the social structures in which they were embedded, *in primis* the most pervasive ones, such as the family, the religious community and the political institutions. This highlights how the roles considered appropriate for women in relationship to violence were often connected to their functions within the structures of late medieval Mediterranean societies.⁷⁹ The political, economic, and cultural exchanges between the different shores of the Mediterranean Sea could thus create linkages in both social practices and discourses on women and violence.

In sum, this work will be relevant in promoting efforts towards social change in a number of ways. Firstly, it historicises and denaturalises narratives we take for granted, by shedding more light on the origins and implications of assumptions connecting women and violence that gained a prominent place in the late medieval Mediterranean and are still at work in present discourses. Most importantly, it offers methodological reflections on the importance of considering the long-term dynamics in the development, transformation, and collapse of discourses of gendered violence, as well as on the fundamental connection between the latter and the socioeconomic and political contexts in which they operate. We hope that these reflections, which have not always been at the forefront in studies of gendered violence, can prompt other scholars working on these issues to ask new questions to their case-studies.

Themes and findings

The volume is divided into three sections. The first section focuses on the relationship between women and war, seen through the analysis of primary sources. In the first paper, Maximilian Lau offers a thorough analysis of a unique and previously untranslated Byzantine court poem by Theodore Prodromos, describing the defence of Turkish-held Gangra by its Amira in 1135. The chapter analyses the poem by applying perspectives from gender studies, to describe the portrayal of women and outsiders at the Byzantine court. It finds that the poem offers a different perspective on the role of Muslim women, who in this case carried out the typically male role of organising the military defences of Gangra. This is followed by Nina Soleymani Majd's paper, which studies the representations of feminine

forms of violence within the genre of the epic across three different linguistic areas (Byzantine, Persian and French), through the lens each region's epic cycle. The contributor explored how attitudes towards women in epic texts could be positive or negative, and in so doing, offers a critique of the epic genre more broadly. This criticism, in particular, focuses on the genre's gender binarism. While in the poems the specific deeds of women are concealed to the point of obscurity, their violent nature as warriors remains a key theme of epic writing. In the third paper, Alberto Luongo examines figures and episodes about the relationship between women and warfare in twelfth–thirteenth century communal Italy. The chapter notably focuses on middle-class women, who are typically overlooked in scholarship, which tends to focus exclusively on elite women. In this respect, the author concludes that there was indeed an active participation of women in the warfare of the Italian communes of the twelfth and thirteenth centuries, and the presumed exceptionality of middle-class women in warfare should be reconsidered more broadly. Lucie Arrighi's contribution concludes the section by discussing the role of female revenge in the plot of the most ancient history of Corsica. By reassessing the roots of the *topos* that sees Corsica as a violent land, the author discusses the duplex role played by women in war and politics in the insular seigniorial discourse of the fifteenth century. Besides offering a thorough study on a less-well-known topic, the author suggests that on one hand female violence was seen as a consequence of the political turmoil that the Corsicans were responsible for, while on the other women also acted as the indispensable guarantors of the traditional Corsican model of lordship.

The second section (Women and Criminal Courts) is opened by Carol Lansing's paper in which she focuses on late thirteenth-century courtroom records on cases of rape from Bologna. The author engages with the existence of a surprisingly large number of trials for this crime, despite the widespread scholarly opinion on rape according to which both the victims and their families tended not to pursue rapists in court for fear of affecting the women's reputation. This chapter establishes that almost 50 percent of accusations concerned women without a husband or a father, individuals who would frequently oppose the revelation of such crimes to authorities. The following chapter, by Nina Kršljanin, offers an analysis of crime regulation in fourteenth-century Serbia, during the reign of the Emperor (Tsar) Stefan Dušan, by investigating similarities and differences between legal codes regulating the crime of rape in the Mediterranean. The author seeks to understand if similarities are the result of trans-Mediterranean cultural influences or a mere coincidence. She concludes that the Serbian regulation of sex crimes relied on Roman and Byzantine law, but given the differences between rural and urban environments, there were contradictions between the laws present in the statutes and their enforcement. The next author, Philippa Byrne, sheds light on the legal status and punishment of women in a previously understudied period of Sicilian history, that of transition from Norman rule to the establishment of Staufien. She compares the terms of crime regulation between the Assizes of Roger II and the Constitutions of Frederick II, to see if the aforementioned transition should be read as a transformation in the status of women in Sicilian politics.

The last section, Violence and Female Social Roles, opens with Élisabeth Malamut's paper, which applies Michel Foucault's theories of *parrèsia* to Byzantine society by looking at how it was conceived and what it represented. She analyses both the non-gendered *parrèsia* of saints and a gendered version, seen as the specific type of violence allowed to women in Byzantium. In the following contribution, Loek Luiten analyses the condition of slaves in Renaissance Central Italy by looking at a record of the life of a slave called Jacoba. By analysing a handful of cases, Luiten concludes by arguing that, in some cases female solidarity could transcend barriers between women of different social classes, and even between free and unfree. The contribution by Joseph Figliuolo-Rosswurm offers a discussion of several criminal inquests from the mid-fourteenth century Fiorentino, in order to explain when and why elite women instigated violence against non-elite individuals. Through a detailed analysis of such cases the author argues that there was a continuum between slander and delegated violence, during and after the plague cycles of the years 1348–1349 and 1363–1364, when women allegedly replaced their male kinsmen as instigator of assaults. This finding goes against usual assumptions about the lack of female agency in situations of factional violence. The last paper, by Stephanie Novasio, focuses on crimes such as abortion, infanticide, exposure and child neglect in Byzantium, to see if there was any gendered bias regarding such crimes; that is to say if they were only perceived as typically feminine crimes by the Byzantines. She concludes that these crimes offered an avenue for violence open to people of multiple stations and genders, so long as they inverted the social standards of both.

Annick Peter-Custot concludes the volume by summing up the main findings brought up by the contributions offered in the book. In particular, she analyses the theoretical framework in which violence and women were correlated in the late medieval Mediterranean. Although the framework was elaborated on the basis of sources written by men, this volume offers, on the other hand, a different perspective on the relationship between women and violence, in which their agency to manipulate the framework is recognised.

Notes

- 1 Hanawalt 1986; Charles and Duffin 1985; McIntosh 2005; Goldberg 1992; Briggs 2004; Beattie and Stevens 2013.
- 2 Ewan 1992, 2002, 2010; Kuehn 1991, 2017; Phipps 2020.
- 3 Kuehn 2017, p. 60.
- 4 Cohn 1996, pp. 1–15; Bennet and Karras 2013, pp. 1–5.
- 5 Musson 2001.
- 6 Elias 1939; Herlihy 1972; Gurr 1981; Stone 1983; Muir 1993.
- 7 Hale 1972; Bellamy 1973; Mollat and Wolff 1973; Guenée 1985.
- 8 Gluckman 1955; Falk Moore 1978, 2001; Miller 1990; White 1998; Poulsen and Büchert-Netterstrøm 2007.
- 9 Cohn 1999; Watts 2009; Lantschner 2015; Gamberini 2017.
- 10 Skoda 2009, 2013.
- 11 Kaminski 2002; Smail 2001, 2003; Lantschner 2015.
- 12 Dessi 2005.

- 13 Kumhera 2017; Jansen 2018 ; Zanetti Domingues 2021.
- 14 Zemon Davis 1987; Lansing 2018; Butler 2007; Dean 2004a; Hawkes 2003; Skoda 2009.
- 15 Phipps 2020, p. 113.
- 16 Hanawalt 1974; Ewan 1992, 2002, 2010, 2011.
- 17 Kumhera 2017, p. 212–217.
- 18 Kumhera 2017, p. 204; Miller 1990, pp. 208–209; Balzaretto 2003.
- 19 Phipps 2020, p. 114.
- 20 Skinner 2001.
- 21 Herrin 2013, p. 2.
- 22 Dossey 2008; Neville 2016, 2019; Betancourt 2020.
- 23 Dossey 2008, p. 4.
- 24 Betancourt 2020, p. 28.
- 25 *Ibidem*, p. 31.
- 26 Neville 2019, p. 33.
- 27 Betancourt 2020, p. 30.
- 28 Brubaker 2004, p. 85.
- 29 Talbot 1996.
- 30 Betancourt 2020.
- 31 Meitanis 2000; Tirnanic 2017; Shawcross 2020.
- 32 Herrin 2013, p. XVI.
- 33 Grossman 2004, p. 422.
- 34 Rapoport 2005, p. 7.
- 35 Grossman 2004; Hambly 1999; Gleave and Kristó-Nagy 2018; Marín 2000; Rapoport 2005, 2007; Keddie and Baron 1992.
- 36 Bloch 1949.
- 37 Jones, Kostick and Oschema 2020.
- 38 *Ibidem*, p. 16, see also Boucheron 2016.
- 39 Decock, Larrière and Mazeau 2019.
- 40 Chazelle, Doubleday, Lifschitz and Remensnyder 2012, p. 11, cf. also Rosa 2017, pp. 33–34.
- 41 Monnet 2020, p. 285.
- 42 Méhu, de Barros Almeida and Cândido da Silva 2012; Monnet 2020, p. 283.
- 43 Chittolini 2003, pp. 344–345.
- 44 Bloch 1949, p. 18.
- 45 Nienhuis and Kienzle 2017.
- 46 Gilbert 2002; Cardi and Pruvost 2012; Magnani 2012.
- 47 Renzetti, Miller and Grover 2013, pp. 1–3.
- 48 Boots and Wareham 2013, pp. 173–174; Flavin and Artz 2013, p. 14.
- 49 Stacey and Spohn 2006; Starr 2012.
- 50 Cardi and Pruvost 2012, p. 13; Weare 2013.
- 51 Wolf Harlow 1999; Boots and Wareham 2013, p. 173; PRI Briefing 2012.
- 52 Bell 2007, p. 367.
- 53 Sandstrom, Martin and Fine 2010; Weinberg 2014; Burr 2015.
- 54 Chesney-Lind and Jones 2010.
- 55 Cardi and Pruvost 2012, p. 16.
- 56 Akers and Sellers 2004, ch. 8; Cardi and Pruvost 2012, p. 15.
- 57 Gilbert 2002.
- 58 Since affronts to honour were mostly perceived in pre-modern societies as equivalent to physical violence: see Schwerhoff 2002. On the relevance of verbal attacks for the study of violence in the late medieval Mediterranean see the contributions of Malamut and Figliulo-Rosswurm in this volume; for the current debate on scholarly definitions of violence, see Spierenburg 2008; De Haan 2008.
- 59 For a similar approach, see also Tripp 2020.
- 60 Burr 2015, p. 74–75.

- 61 *Ibidem*, p. 76; see Luiten's article in this collection for the importance of personal propensities in explaining the specific behaviour of medieval individuals.
- 62 Burr 2015, p. 74; Gilbert 2002; Chesney-Lind and Jones 2010.
- 63 Van der Heijden and Pluskota 2018, p. 666; Van der Heijden and Muurling 2018.
- 64 Horden and Purcell 2006, p. 725–728.
- 65 Matvejevič 1999; Goitein and Lassner 1999; Horden and Purcell 2000; Abulafia 2003; Harris 2006.
- 66 Horden and Purcell 2006, p. 733.
- 67 Lantschner and Skoda 2012, p. 10.
- 68 Pennington 1993, 1996.
- 69 Jacquart 1985; Skinner 1997; Siraisi 1990, 2001.
- 70 Holmes and Standen 2018, p. 3.
- 71 A question famously explored by Braudel 1949.
- 72 Holmes and Standen 2018, p. 2.
- 73 For a discussion, see Holmes and Standen 2018; p. 15–18; Wickham 2016, p. 5; Varisco 2007; Davis and Puett 2015; Reuter 2006.
- 74 e.g. Rossi 2018.
- 75 e.g. Lifschitz 2012, and her bibliography.
- 76 Skinner 2014.
- 77 Kangas, Korpiola and Aiononen 2013, in particular pp. X–XI.
- 78 Skinner 2014; Cardi and Pruvost 2012; see also Peters-Custot's conclusion below.
- 79 A similar conclusion is reached by Van der Heijden and Muurling 2018, for early modern female crime.

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Part I

Women and war



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1 ‘Both general and lady’

The 1135 defence of Gangra by its Amira

Maximilian Lau

Introduction

Though many Muslim Women, including several close kin of the Prophet, had been involved in warfare at the foundation of Islam, by the sixth-century AH/twelfth-century AD their participation appears to have been consigned to epic tales rather than contemporary reality.¹ Indeed, a ninth-century AD text related that a woman had once asked the Prophet why women were forbidden from winning the same rewards in battle that men could, and the Prophet is alleged to have answered that women could simply gain those rewards if they obeyed their husbands and stayed at home.² The marginalisation of Muslim women warriors was, however, as at odds with the realities of twelfth-century middle eastern warfare as it is with conflict in the modern middle east: when necessity or opportunity arose, women were and are still more than willing to take up the sword in the tradition of their martial predecessors. This study intends to throw the spotlight on one such figure, uniquely known not from an Arabic source but a Byzantine one: the unnamed woman who led the defence of Gangra from the assault of the Emperor John II Komnenos (1118–1143) in 1135. This previously understudied text functions at both a more literal level, giving us a snapshot of the events of this year as they were presented to the imperial court, and also displays unique literary elements, on which this paper will offer preliminary analysis.³

Genre and author

To briefly introduce this type of poem, it is one of the many so-called ‘rhetorical’ Greek texts from the twelfth century that were primarily written or order to be presented to either the court or the people of Constantinople as part of a public ceremony, though some also show signs of being academic exercises intended for use in teaching rhetoric. They were produced to glorify the emperor and his regime, using biblical, classical and more recent historical similes and references not only for literary flourish, but also to emphasise specific meanings that were of particular relevance to the regime, in addition to simply relating the latest doings of the emperor to the capital.⁴ Indeed, because these sources have a known, specific, political agenda that influences their transmission and presentation of events, they

often act as a time capsule containing the messages the regime wished to be known in the capital, allowing us to take the political pulse of the regime and, thus, assess what the emperor and his government were attempting to accomplish. The overt bias is therefore profoundly useful in assessing these contemporary messages, in addition to adding some colour and detail to often-sparsely documented historical events, such that they could certainly be characterised as twelfth century official press releases, wrapped in literary allusions.⁵

To briefly comment further on the interplay between event and text, in practical terms messages were sent from the emperor on campaign to Constantinople, and perhaps the cities of the empire as a whole, keeping the people informed of developments, and we have one direct example of this from Anna Komnene's *Alexiad*.⁶ With the Byzantine court and wider citizenry being as much a social and cultural organisation as a political and bureaucratic one, this information was then converted into the form of poems to be propagated and digested by the court and people, with specific forms of poetry directed towards different audiences.⁷ Specifically: the high style of hexameter was for elites, and the so-called *dekastich* (ten-line verse) was designed to be sung to a wider audience. Unfortunately, no verbatim battlefield communiqué survives, but we have the process of propagating imperial success described in two letters by Michael Italikos and Theodore Prodromos to the *Logothetes ton Dromon* (Minister for the Imperial Post), Stephen Meles, and then it is also referred to in the orations themselves. Italikos mentions how he heard a letter from the emperor and knew the words were by Meles, such was their eloquence describing the battles and deeds of the Cilician campaign.⁸ Italikos then mentions how he went to the 'platform of the *didaskaloi*' to pass on such deeds himself, and we are fortunate to have this exact oration preserved, during which he mentioned that giving orations was his public service, *δημοσιεύων*, where he passed on the news and instilled support for the regime in those listening. Prodromos corroborates this process in his own letter to Meles, where he looks forward to the logothete's return so that Meles can 'sing' of the emperor's deeds and then Prodromos can accompany and continue that song.⁹ Prodromos then boasts in Poem XIX that though many were working on poems for the emperor, only he had finished his, suggesting that speed of propagation was also important.¹⁰

Regarding Theodore Prodromos himself, recent scholarship has named him the Constantinopolitan 'poet laureate': a master of his craft who wrote more than 17,000 verses across multiple genres, from hagiography to classical romance, Aristotelian philosophy to satire.¹¹ His life is only known through his work, where we can track how he began writing in the service of John's mother, Empress Eirene Doukaina, in the 1120s before being taken on by John's regime in the 1130s, having a lean period in the 1140s when he considered moving to Trebizond, before writing again for John's son Emperor Manuel I Komnenos.¹² When not supporting himself through commissions, he made his living by teaching, though he is also known for a number of so-called 'begging poems', often of a satirical nature as he parodied the extent of his own poverty, though the extent to which he was truly poor rather than wealthy and simply writing yet another genre

is certainly up for debate.¹³ Either way, Prodrornos was a writer of the highest calibre, with knowledge and writing interests across multiple genres, though the poem this study is focused upon is particularly exceptional even for him.

Text

Though this 292-line poem is addressed to the emperor, it opens by informing the emperor that the poet is actually recounting his deeds to the citizens of ‘Young Rome’, Constantinople (lines 1–2). The poet informs the people that the emperor had set out on campaign, ‘rushing upon the east, face to face with evildoers’ when ‘insufferable pain blunted the glorious assault’, as John’s beloved wife, Empress Eirene-Piroska, had died (lines 8–11, with her funeral mentioned in lines 11–17). This opening usefully confirms one of the three contradictory chronologies for this campaign related by different historical chronicles, but also introduces us to the first of the prominent women in this text.¹⁴

Princess Piroska Árpád of Hungary had been married to John when the two of them were teenagers, when she was also given the name Eirene, and unusually their marriage shows every sign of being a genuine love match.¹⁵ This is demonstrated particularly well in the foundation charter for the monumental monastery of Christ Pantokrator, which Eirene-Piroska had begun to found and which John completed after her death, in which he writes:

for through [God’s] help I found someone to share [the monastery’s] planning, construction, and completion, my partner and helper in life, though before the complete establishment of the task she left this world by thy mysterious decision and by her departure cut me apart and left me torn in two.¹⁶

It is therefore unsurprising that the poem relates how the emperor called off his campaign for her funeral, and to mourn, but the poem continues that, as emperor, John had to place the living before the dead (lines 17–20). Prodrornos then mentions that the Lord of Gangra, known from another text as a certain Amir Alp-Arslan when he was captured by John,¹⁷ had died, and a Lady now ruled Gangra (lines 25–26).

This information is unique to this source, as is all further information concerning this unnamed Amira, as I have named her in this poem for clarity. From this point on she is attributed many verses of speech where she appears alternately as a savage enemy and cunning nemesis to John, and yet also a noble and worthy lady and general.

Going through the poem’s highlights, she is contrastingly presented not only as ‘a raving mad bitch grinding her teeth’ but also ‘a pure maiden, both general and Lady’ whilst also insulting the Theotokos:

κοῦρην δ’ ὑλάσκειν ἄνασσαν, παρθένον ἄγνωτόκειαν, ὁμοστράτηγον
ἄνακτος, λυσσήτειρα κύων, ὀλοοῦς δ’ ὑποτέτριγ’ ὀδόντας.

(lines 45–47)

Specifically, when John sent his ‘finest men’ as ambassadors to negotiate a surrender, she laughs, defying their ultimatum (lines 27–35). In her speech, she describes herself as a woman who puts forth the strength of a man, and willingly embraces the joys of battle rather than surrendering to John. She declares that she will not yield as she sits secure in a lofty citadel with well-armed soldiers, and then follows with a possible taunt by specifically mentioning that she is not ‘without allies’ (lines 26–44). Though Prodromos relates that these words did not anger or alarm John, despite their ‘arrogance’, and the poem moves swiftly on to John’s capture of the other major regional city of Kastamon and then arrival at Gangra in person (lines 51–57), this stands in direct opposition to our later written historical accounts. The Amira’s reference to allies may be a subtle reference to the betrayal of Sultan Mas’ūd of Konya, a former Muslim client of John’s whose troops had abandoned John in the middle of the night on the eve of battle when John was about to assault Gangra.¹⁸ In response to this, John supposedly flew into a rage according to the historian John Kinnamos, launching an assault upon Gangra that was easily repulsed, necessitating a retreat back to imperial territory over the winter.¹⁹ Whether John actually flew into a rage or not, the contemporary poem is clearly presenting John in the best possible light. The Amira of Gangra is, however, an ambiguous figure: both truly inimical to the empire, and yet also a worthy enemy for John despite being a heathen woman, demonstrated by her words and actions in Prodromos’ poem. Furthermore, this section highlights the narrow tightrope that the court rhetors had to walk in constructing these texts, as they had to at least partially cleave to the truth as they related what was occurring to many who were there, but also sought to praise the emperor. Alluding to imperial failures through the Amira’s speech neatly solves the problem, as, being an enemy, of course she would taunt the emperor in this way. By doing so she also reveals herself to be an adversary of note, making it all the more glorious when the emperor does eventually defeat her.

Prodromos’ poem then aligns once more with our historical sources, relating like them how John had taken Kastamon through the might of his siege engines: penthouses, tortoises, miners, ‘wall-destroying machines’, and a hail of rocks: ‘μήγεα ὠλεσίταιχα, χαλαζοβόλει δέ τε πέτρους’ (line 63). This deadly barrage was maintained for three days before the Turks surrendered and opened the gates, a description that makes Kinnamos’ statement that the city was taken ‘by agreement’ seem a dark simplification that demonstrates Kinnamos’ occasional minimisation of John’s achievements.²⁰

Following this, the emperor took council, and after consideration he left behind any soldiers who could not travel, and though setting up his banner underneath the walls of Gangra, he also sent his men all around the countryside, with Prodromos using the vivid hunting simile that:

ἀλλὰ καὶ ὡς δασύπουν κεκαφηότα κύνες ἔλοντο, ὡς ἄρα καὶ φυγάδας Πέρσας
ἔλον Αὔσονες υἱοί

as the hare is seized by the hounds, so will the fleeing Persians [Turks] be
seized by the sons of Ausones [Romans].

(lines 93–94)

This confirms the historian Niketas Choniates' reference to John taking the surrounding area first, so as to secure the entire region this time, preventing any Turkish reconquest as had previously occurred at Kastamon, in addition to appealing to the emperor's personal love of hunting.²¹ Prodromos then relates a simile-heavy description of an assault upon the lower city, evoking the image of rocks and arrows falling like flour from a sieve upon the city (lines 123–146). After occupying it, the siege engines were turned on the walls of the citadel as well as civilian houses (confirming Choniates' description of events). Alongside this, Prodromos also presents us with the image of John raising his sword to heaven and praying to the Virgin Mary to end the people's suffering by giving Gangra to him, specifically to guide barbarian peoples to his feet as she had before, so as to end this bloodshed (lines 147–173).

This speech is unlikely to be merely rhetorical flourish, as John is also mentioned as crying to an icon of the *Theometor* during the battle of Berrhoia in order that he might defeat the Pechenegs.²² Furthermore, when John captured Kastamon the first time in 1133, he had celebrated the first Roman Triumph in over 150 years, though he had specifically changed the ancient ceremonial by having a Marian icon ride in the gold and jewel encrusted chariot while he humbly walked alongside.²³ Here, Choniates names Mary as John's 'unconquered fellow-general', which is phrase used by Prodromos in multiple poems, and so it is no surprise to read that Mary orders John as a general in this poem.²⁴ What is unusual, however, is that the Virgin's opponent is another woman, who appears again in the next verse in direct opposition to her. She now appears to 'weave fine plans of wicked cunning' (line 186–187) as she gives a powerful speech noting the 'great wickedness the great lord (John) has done against the city and still does', 'ὄσσα πόλιν κάκ' ἔρεξεν ἀναξ μέγας ἡδ' ἔτι ρέζει' in reference to John's siege weapons, in response to which she hires an assassin, who will disguise himself as a fugitive, get close to the emperor and then kill him with a poisoned blade (lines 192–216). However, her plan is thwarted when arrow hits the assassin as he was sneaking out of the citadel, causing her to deliver two further speeches (lines 231–242 and 244–248).

She tells the women in her entourage that she must no longer be queen but must become a slave to John so that they might live as all was now lost. She then instructs her entourage to tell the men, perhaps their husbands, to shave their hair, put dust on their heads and tie their hands (following biblical paradigms for humility)²⁵ and descend to the city to surrender to John. She then bids farewell to her city, and when John accepts the surrender and enters the gates, she herself prostrates herself, fully armed, in front of his horse (lines 254–255). She then seems to disappear from the poem as John processes to Gangra's cathedral to celebrate his victory, and the poem ends with John being acclaimed as the only true equal to Alexander the Great for his victories (lines 249–263 and 285–292). This last section is notable for being packaged with an extended simile where John is equated to a hard-working husbandman, who after his labours returns home to be presented with a cup of wine by his wife as a reward, and is then praised by his fellow cow herders and shepherds of sheep and goats (lines 264–282).

Analysing this latter section of the poem is made intriguing by the fact that curiously few biblical, classical or more recent historical similes are used by

Prodromos, especially in establishing a paradigm for how listeners were meant to react to the Lady of Gangra. She is not quite the sorrowing Hekuba of Troy in the *Iliad*, as she actively saves her city by sacrificing herself, nor is she a straightforward warrior like Artimisia in Herodotus' histories, or, indeed, the originally Byzantine warrior woman Efrumiyye of the thirteenth-century Turkish epic, the *Danişmendname*. Her ambiguous status as a worthy heathen gives a slight echo of Maximio, the woman warrior in the twelfth-century epic of Digenes Akrites, although, insofar as the Amira never actually fights, the parallel is not the strongest.²⁶ Equally, she is neither a positive Biblical woman of violence, such as Judith, Ruth, or Deborah, or a negative one such as Jezebel or Delilah. Considering these texts in general, and Prodromos in particular, usually in no way shy away from making a comparison so that an audience can establish what a contemporary individual was like, letting this Amira be judged entirely on how she acts and what she speaks without any paradigms in highly unusual. On the one hand, the nature of the text as a ceremonial press release leads to the explanation that the reason for this was simply because Prodromos was here recording an approximate form of the actual events that occurred. On the other hand, Prodromos may here be making allusion to texts in a far subtler form than usual. Equally, is this vision of the Amira entirely his interpretation, or is there some hint of actual twelfth-century Islamic culture, whether real or imagined?

Cherchez L'Amira

It should first be restated that Prodromos is almost certain to have produced this poem shortly after these events occurred. Indeed, the aforementioned poem where her husband was listed as a captive was likely to have been sung out by a choir on the route of John's triumph as that captive was being led past, such that this poem, too, could well have been performed in the presence of the captive Amira. Proximity to the events described, and the possible presence of the Amira, still bring us no closer to teasing out the deeper meanings behind this text, but, what could is a deeper analysis of both the Islamic and Byzantine historical and cultural context. Doing so alludes to three possible interpretations of this text. The first is a more literal interpretation, one that suggests that this poem hints at an imperial policy of accepting the legitimacy of Muslim client rulers in Anatolia, which is predicated on similar occurrences happening across the region at this time. The second suggests connection with a wider, multi-lingual epic tradition of female warriors across the region, whilst the third interpretation leans more heavily on Prodromos' own scholarly interests, positing that the poem uses a Hesiodic model to explain these events.

Beginning with the possible reality of the Amira's defence of Gangra, even if the golden age of historical Muslim women warriors was centuries before, there is one significant exception. There are several mentions of women involved with warfare in the writings of Usāma ibn-Munqidh of Shayzar and Damascus, specifically in his *Kitab al-I'tibar*, 'The Book of Learning by Example'.²⁷ Like Prodromos, ibn-Munqidh was writing not long after these events actually happened,

and as an eyewitness on various occasions, and so his work is in a considerably different category to most Islamic historians who write about this era. Examining the examples of women and warfare in his work, we find the first example as one mainly used for dramatic effect: Usāma relates how during an attack by Ismailis upon a castle of his cousin, that cousin was tempted to flee.²⁸ However, that cousin's mother then appeared to him dressed in armour and asked him what sort of life he'd have if he fled, leaving his daughters and mother to die, such that in the end he was shamed into protecting them instead. Usāma follows this up immediately with a story of his own mother arming him for battle against the Ismailis, calling her a warrior, and also that one of his grandfather's slaves, an aged maid called Funun, grabbed a sword and fought alongside him until they prevailed.²⁹ After an aside also noting the wisdom of his mother, he then relates the exploits of various women: one who arranged to have her brother kill her bandit husband, another woman named Nadrah bint Buzurmat who captured three Franks during a raid on Shayzar and then had a neighbour kill them, and also the tale of a Frankish woman who hit an Egyptian Amir with a jar after the Amir killed her husband.³⁰

Usāma presents all of these as positive anecdotes, noting their piety and bravery. These anecdotes, and his reaction, can to a certain extent be explained by Shayzar's location on the border of various Muslim and Christian powers that often called for such bravery from its inhabitants, putting it in a similar frontier zone to Gangra. Specifically, Shayzar was also besieged by Emperor John in 1138 AD, where the emperor took the town but the citadel managed to negotiate the emperor's withdrawal after agreeing to give regular tribute in addition to a great deal of immediate treasure.³¹ This result is worthy of note here as it is specifically likened by Prodnomos' fellow rhetor, Michael Italikos, to Alexander the Great at the battle of Hydaspes.³² This was one of Alexander's costliest victories, but one when, due to the resistance shown by Porus impressing Alexander, the conqueror decided to make him a satrap in his empire, incorporating the Punjab and opening up India to Greek influences. Italikos claims John took the kingship from the barbarian, then made him king again for not bearing ill will towards the empire, for John was standing up as a 'guardian of all', and was truly seeking to 'fasten rulers from every side'.³³ Did Prodnomos emphasise how the Amira believed she would become a slave, forced to work the plough in the fields, because in fact John required her to do no such thing?³⁴ This later anecdote, together with the aforementioned clientage of Mas'ūd of Konya, certainly tells us that John had no problem with Islamic clients. Indeed, John's best friend and usual second in command, the *Megas Domestikos* John Axouch, had originally been a Turk from Nicaea.³⁵ Considering this, could Prodnomos be using the portrayal of the Amira as a noble ruler who cared for her people, even if she was Muslim and had fought against the emperor, in order to promote the idea that rulers such as her would make suitable clients for the empire? The Turkish domination of central Anatolia and the former eastern provinces had left the empire in a situation where the easiest way to stabilise the new borders, or even to reconquer these lost lands, would be to gain reliable clients from the among the various Armenian, Crusader and, indeed, Islamic, rulers. Any supposition as to the Amira's future after her

capture by John is pure speculation, but the possibility certainly exists that, perhaps through a marriage and conversion, she may even have been installed back into Gangra if there is any truth to Prodromos' poem. Such things are common in Turkish romances, such as the aforementioned *Danişmendname*, where, intriguingly, we hear that Gangra's first fall to the eponymous Turkish hero was due to the actions of a certain Meryem Hatun, a Christian woman who saw the Prophet in a dream.³⁶ Though Choniates tells us that Gangra later fell once more to the Turks, we have no details, but there is certainly the possibility that this later Turkish epic conflated the two captures, leading to the possibility that this Amira may even have been instrumental in her city returning to Turkish dominion once again. Either way, adopting this more literal interpretation leads us to the conclusion that Prodromos was portraying the Amira as a worthy enemy as part of a general imperial policy aimed at bolstering support for Komnenian campaigns in Anatolia.

Though the Amira's later history is a mystery, the blending of epic and history in the *Danişmendname* has some resonance for the second interpretation of this poem, as there is in fact another famous warrior Amira whose tale begins to be told around this time in the Arabic epic tradition. Just as Bayrı found that the *Danişmendname* depicts the world of the twelfth century despite its eleventh century AD setting, various scholars have noted how the twelfth century *Sīrat al-amīra Dhāt al-Himma*, 'The Tale of the Amira of Valour', also depicts the contemporary twelfth century AD world of Franks and Turks, rather than its alleged late seventh to ninth century AD setting.³⁷ Kruk and Magidow highlight how this tale contains various warrior women, including a Georgian Queen, a Byzantine noblewoman, six Christian princesses, five Arab women and a Bedouin girl in addition to the titular hero, originally known as Fatima but who is later known both as *Dhāt al-Himma* and by her own given identity: *dāhiyya*, translated by Magidow as 'the Fiend'.³⁸ Though much of her tale relates a life of raiding rather than defending her lands, the dual identity as both a servant of her people and a fiend to her enemies, composed around the same time as Prodromos' poem, heavily suggests some form of cultural interaction, akin to the composition of the Greek epic of *Digenes Akritas*, as is related elsewhere in this volume. Indeed, could this be a rare example of the so called 'pizza effect', a phenomenon whereby an element of a people's culture is embraced elsewhere, and is then re-imported back to the original culture in a different guise?³⁹ Ott suggested a composition place and date of north Syria between 1100 and 1143, where Emperor John and his court were twice in the last five years of his life; there was certainly opportunity here for the tale of the Amira of Gangra to have spread, and then incorporated into legends of this other Amira. Tracking this sort of cultural interaction is speculative by nature, and it should certainly be emphasised here that I have used the term 'Amira' for clarity, as she referred to as 'Lady' or 'Queen' in Prodromos' poem, and so direct evidence of connection remains out of reach.

Turning to the third interpretation, there is one classical paradigm that Prodromos might here be employing that could also explain the poem's unusual features. Though the emperor is the apparent hero of the poem, as he is in every court piece of this type, most of the text is about women: not only the Amira, but also

John's beloved wife, Eirene-Piroska, whilst John's only direct speech is entirely discussing the power of the Virgin Mary, and the ending concerns the extended simile of the woman who gives the farmer wine. This latter part may be significant, particularly in conjunction with the odd simile of the siege missiles raining down like flour, sieved by a servant girl, earlier in the poem (lines 133–145). These pastoral similes are reminiscent of Hesiod's eighth–seventh century BC poem, *Works and Days*.⁴⁰ Though this text mainly concerns advice for Hesiod's brother Perses on how to farm, the poem is also known for two mythological aetiologies that attempt to explain the toil and suffering of the human condition, including the famous Pandora and Prometheus. Among these is a specific reference to Eris, goddess of Strife, where, in opposition to Hesiod's other great work, the *Theogony*, he notes that there is more than one Strife. Specifically, there is the well-known one in the *Theogony* who provokes wars and disagreements, such as the Trojan war by throwing in the golden apple, but then there is another who should be honoured as she compels men to compete with each other honourably, and through such rivalry to excel.⁴¹

Applying Hesiod's dual vision of Eris to this poem, we see John's competing desire to mourn his wife, whilst also obey the Virgin's command that he should rescue the Christians of Anatolia. The Lady of Gangra is both a 'shining' example of how a ruler should care for her people, as well as an evil schemer causing suffering on the earth by delaying the fulfilment of God and the Emperor's plan for the world, but, in causing that rivalry she is allowing the emperor to reach his full potential by imitating Alexander.⁴² On a realpolitik level, this schema justifies imperial failures as being part of the process: though eventual imperial success is guaranteed, it is only through struggle, akin to the hard work of the farmer in the field, that John will become a great emperor, and all because of the good and bad 'Strifes': the Virgin, his wife, and the Amira. Prodrornos is also partial to portraying the emperor as constantly working hard for his people, indeed in one poem he compares the 'golden sweat' from the emperor's brow to the blood of Christ for its redemptive powers.⁴³ Considering Prodrornos' personal scholarship, a Hesiodic model, crafted for teaching purposes or his own academic interest in attempting to use a classical aetiology to explain twelfth century conflicts, rather than necessarily for any deeper political meaning, may be what is being presented here.

Conclusion

Whether this poem is interpreted as alluding to imperial policy, hinting at intercultural interaction, or was merely Prodrornos teaching or musing on the causes of human conflict using a classical model, this occasional poem was still grounded in actual events. With her husband captured and then deceased, the Amira took on the mantle of defending her city against those who would take it from her, resisting the empire attempting to reverse the Turkish conquests of the previous generation. Though her later history and 'real' character may be beyond reach, this poem evidences a Muslim woman who did not merely stay at home, but one who defended her home with every tool at her disposal, including violence, such

that she was lauded for her deeds in a foreign tongue by one of the greatest writers of the period. There is certainly more to be said regarding this multi-faceted text, but hopefully these preliminary interpretations will inspire others to study these marginalised Muslim warrior women more in future.

Notes

- 1 Mubarak n.d.; Kruk 2014. Examples include the prophet's aunt Safiya bint Abd al-Muttalib, noted for defending a fortress at the Battle of the Trench ('Khandaq', at Medina) (5AH/627AD) by cutting the head off of a Jewish man with a sword. More significant was one of the two women who swore the great second oath to follow the Prophet: Nusayba bint Ka'ab al-Anṣārīyya, also known as Um 'Ummara, who took part with other women in most of the key battles that led to the treaty of Hudaibia, whereby the Prophet was allowed to return to Mecca, and when recalled to service at the age of sixty she allegedly lost an arm in battle but still fought on. (Al-Maḳḳisi 1994, pp. 53–54; al-Imam al-Waḳīdi, *Futūh. al-Shām*, pp. 88–89). Further, there was the prophet's third wife, 'Ā'ishah bint Abī Bakr, the 'mother of the believers', who had attempted to personally avenge the death of the second Caliph, Uthman, leading troops with inspiring speeches at the Battle of the Camel (Basra) in 36AH/656AD (Spellberg 1994). Then there was Zaynab bint 'Alī, who as a granddaughter of the Prophet through his daughter Fatima was briefly the head of the Ahl al-Bayt, the family of the prophet, and is noted for facing down the Umayyad Caliph Mu'āwiya after the massacre at Karbala by giving a speech that forced the Caliph to let those prisoners go, such that she is one of the few women honoured by both Sunnis and Shi'ites (Pinault 1998, pp. 48–57). In the next generation there was Khawla bint al-Azwar, who amongst other battles played a key role as a general at the great six-day battle of Yarmouk in 636 where the Caliphate defeated the Romans (al-Imam al-Waḳīdi, *Futūh. al-Shām*, p. 353). See in general: Mubarak n.d.; Cook 2005, pp. 375–378.
- 2 al-Masisi 1998, p. 125.
- 3 Hörandner 1974, VIII, pp. 233–243; Kambylis 1974, pp. 36–38; Papagiannes 2012, pp. 66–73.
- 4 Kazhdan and Franklin 1984, p. 106; Hörandner 1991, pp. 94–97; Mullett 2013, pp. 173–182; Lau 2014, pp. 195–214; Lau 2016, pp. 440–440; Zagklas 2019, pp. 237–263.
- 5 Stathakopoulos 2016, p. 4.
- 6 Komnene, *Alexiad*, 14.6, p. 449.
- 7 Lau 2014, pp. 195–214
- 8 Italikos, *Letters*, p. 232; Magdalino 1993, pp. 313–314.
- 9 Op de Coul 2007, pp. 125–126.
- 10 Hörandner 1974, p. 310, lines 1–10.
- 11 Hörandner 1974, pp. 21–35; Bazzani 2007, pp. 211–214, 225; Zagklas 2014, pp. 52–72.
- 12 Zagklas 2014, p. 63.
- 13 Kazhdan and Franklin 1984, pp. 23–86; Alexiou 1986, pp. 1–40; Beaton 1987, pp. 1–28; Eideneier 1991 and 2012, I–IV; Bouchet 2012, pp. 3–47; Agapitos 2015, pp. 1–41; Nilsson 2015, p. 129.
- 14 Michael the Syrian, *Chronicle*, 16.5, p. 234.
- 15 Sághy and Ousterhout 2019.
- 16 Gautier 1974, p. 29; Jordan 2000, p. 738.
- 17 Hörandner 1974, IV, line 234, p. 207.
- 18 Lau and Shlyakhtin 2019, pp. 230–252.
- 19 Kinnamos, *Epitome*, p. 14.
- 20 Kinnamos, *Epitome*, p. 15.
- 21 Choniates, *Χρονική Διήγησις*, p. 20.

- 22 Choniates, *Χρονική Διήγησις*, p. 15.
- 23 Choniates, *Χρονική Διήγησις*, p. 19; Kinnamos, *Epitome*, p. 13; McCormick 1986, pp. 173–174; Magdalino 2016, pp. 53–70. Or at least as humbly as one can possibly walk alongside a golden chariot dressed in white and gold while thousands cheer, followed by your soldiers, captives, and treasures.
- 24 Hörandner 1974, XI, line 119, XV, line 98, XVI, line 216, XIX, line 84, pp. 257, 274, 284, 313.
- 25 Putting dust on your head and rending your clothes is used especially in the Old Testament to display humility and grief, see: Ezekiel 27:30; Lamentations 2:10; Job 2:12; Joshua 7:6; 2 Samuel 1:2 and 15:32; Amos 2:7; Revelations 18:19. Shaving your head is also used by Isaiah 22:12 for mourning.
- 26 See the study by Nina Soleymani Majd in this volume.
- 27 ibn-Munquidh, *Kitab al-I'tibar*; Cobb 2005, p. 63.
- 28 ibn-Munquidh, *Kitab al-I'tibar*; p. 136.
- 29 ibn-Munquidh, *Kitab al-I'tibar*, pp. 136–137.
- 30 ibn-Munquidh, *Kitab al-I'tibar*, pp. 139–142.
- 31 ibn-Munquidh, *Kitab al-I'tibar*, pp. 11–12, 125–126; Italikos, *Letters*, p. 263–265; Kinnamos, *Epitome*, p. 20; Choniates, *Χρονική Διήγησις*, pp. 29–30.
- 32 Italikos, *Letters*, p. 265.
- 33 Italikos, *Letters*, p. 265.
- 34 The reference to the Amira working the plough is in itself doubly unusual, firstly because though women are referred to as working in many aspects of farm work in this period, ploughing was a decidedly male task, see: Laiou 1981, pp. 248–249; Maniatis 2003, p. 75, n. 37. Prodomos could here be highlighting how even as a slave, the Amira would work as a male slave, or indeed was simply over-emphasising the suffering she would go through to save her people. Either way, this is unlikely to have been a realistic fate for the Amira, but one written for added dramatic impact. Secondly, this is an almost unique reference to rural slavery in a twelfth century Byzantine text, and so how widespread enslaving people for farm work may or may not have been is far from clear.
- 35 Choniates, *Χρονική Διήγησις*, p. 6; Brand 1989, p. 8; Magdalino 1993, p. 208; Beihammer 2020, p. 170.
- 36 Demir 2002, pp. 126–130; Bayrı 2020, pp. 53–56.
- 37 Ott 2003; Kruk 2014; Magidow 2018, pp. 3–4, n.2.
- 38 Kruk 2014; Magidow 2018, pp. 19, 30.
- 39 Bharati 1970, pp. 267–287.
- 40 Tandy and Neale 1996.
- 41 Tandy and Neale 1996, pp. 51–53.
- 42 See Hunger 1969/70, p. 27; Jouanno 2000/2001, pp. 301–321.
- 43 Hörandner 1974, IV, lines 58 and 70, pp. 202–203; Magdalino 1993, p. 433.

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2 Representations of women's violence in the epic

The female '*furor*' in the Old French Guillaume d'Orange Cycle, the Byzantine *Digenis Akritis* and the Persian *Shahnameh* by Ferdowsi

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Introduction¹

The poems studied here offer numerous examples of literary representations of women fighting. This study of the literary counterpart of the recently rediscovered historical testimony on the existence of female warriors will be a complementary element to add to the general picture of the reevaluation of women's presence in the world of warfare in the Middle Ages. Furthermore, by focusing on the strongest form of violence shown by warriors, namely what is called the *furor*, this work aims to challenge the gender-biased view that assumes women are incapable of fighting harshly. By doing so, my intention is not to celebrate extreme violence as a commendable achievement, but rather to promote gender equality and challenge the essentialist assumptions according to which the tendencies and behaviours of one sex would necessarily differ from those of another sex. This work is therefore meant to contribute to the developing terrain of gender studies applied to literature, through the perspective of medieval epic's study.

The epic genre in the Middle Ages is usually considered to be focused on male heroic deeds only. However, it is profitable to compare epics from different cultural areas, such as the Old French Guillaume d'Orange Cycle, containing eleven anonymous² poems from the twelfth and thirteenth century, the anonymous twelfth-century³ Byzantine *Digenis Akritis*, and the Persian *Shahnameh* by Ferdowsi, whose composition dates back to the end of the tenth and beginning of the eleventh century. These texts have been chosen because they are all major representatives of the epic genre in each area considered. Ferdowsi's *Shahnameh* is the best conserved and the most renowned and influential of all Persian epics, with a worldwide importance comparable to the *Iliad* in Greece or the *Mahabharata* in India. The *Digenis Akritis* has recently been rediscovered and its great singularity lies in the fact that it is the only surviving exemplar of Byzantine epic. And the Guillaume d'Orange Cycle is one of the three main epic cycles of medieval France famously listed by Bertrand de Bar-sur-Aube. In these poems, many female characters play prominent roles that have mostly been underrated

by critics until now. Not only do women influence the progress of the narrative, but they can also display heroic characteristics usually associated with men and, thus, become equal in importance to them, sometimes even replacing them as the leading characters. According to a patriarchal audience, reputedly one of the most male-oriented of those characteristics is the particular form of violence shown in battle, which often leads to a frenzy called by critics by its Latin name '*furor*' or '*furor heroicus*'.⁴

Two different critical appreciations are cast on this *furor*. In the classical tradition of Ancient tragedy, *furor* is seen as problematic and leading to madness and crime.⁵ The second appreciation, that is specific to epics, makes it part of the heroic behavior and, as such, a highly admirable and praised quality, despite all its hyperbolic aspects – or because of them.⁶ At first glance, women do not seem to possess heroic *furor* in medieval literature, only detrimental *furor*: in other words, their potential fury is never considered heroic but always shameful and unrighteous. As Catia Galatariotou frames it, in Byzantine writings, especially by clergymen when stating opinions about women in general, 'woman is described, amongst other things, as the friend and organ of the devil, the source of all evil, a shameless and wild beast, a poisonous snake, a thesaurus of dirt'.⁷ In opposition to this description, the idealised stereotype of the perfect woman that pervades Byzantine literature depicts her as submissive and incapable of any violence: 'women were seen to be retiring, shy, fond of seclusion and modest to an extreme, devoted to their families and household and religious duties'.⁸

Similar statements can be made regarding women in Persia. The *Shahnameh* aims to depict Zoroastrian times, but was written during Islam: it therefore combines a vision remotely inherited from Zoroastrianism, and a set of representations originating from Islamic ideology. The Zoroastrian cosmogony attributed many demonic aspects to the feminine, while most of the good female entities offered a model of compliancy and gentleness –⁹ although not all of them. Correspondingly, disparagement of the female gender was common among the Persian poets of the Islamic era, including Ferdowsi. A famous example is the episode of Sudabeh, where Siyavosh clearly opposes male bravery and ability to fight on the one hand, and women's malevolence and idleness on the other hand.¹⁰

In medieval France, the female frenzy evoked in some literary works is seen as leading to hysteria instead of heroism,¹¹ whereas the ideal woman is shy and obedient. As a consequence, women are supposedly far from being capable of any military violence, given their alleged propension either to uncontrollable savagery or to irretrievable weakness; moreover, they are carefully maintained away from battlefields, because their nature is generally described as too weak and fragile to put their lives at risk in open battle.

All these contradictory views about women cover up a reality that has long been ignored, if not denied by historians: women would quite often fight real battles at war and gain fame from it, as numerous examples have now revealed.¹² This reality has remained unknown for a long time because of the prejudices regarding the nature of women, who were still seen in many works of the twentieth century as incapable of any violence, an attribute primarily perceived as belonging to virility. But, as Lynda Garland analyses it with regard to politics, stereotype and

reality could differ greatly:¹³ many women, despite the paradigm depicting them as cloistered and mute, enjoyed various forms of political power. The same conclusion is drawn by Jonathan P. Berkey concerning women in Islam: 'seclusion was the ideal, one that looms large in the historical sources because their educated and affluent authors held it dear, but social reality was considerably more complex.'¹⁴ If the ideal could be different from the real conditions experienced by these women in several fields of action, it was also true in military matters.

In the epics examined below, *furor* is well-represented amongst the male heroes of the poems. The Byzantine hero Digenis is able to kill thousands of opponents all by himself;¹⁵ the Persian warriors such as Rostam or Giv often perpetrate merciless slaughters among the enemy's ranks;¹⁶ and the French hero Vivien is so focused on his vow never to retreat from a fight that his companions suspect him of having lost his mind, when he decides to confront five hundred thousand Saracens with only twenty men left on his side.¹⁷ The purpose here is to demonstrate and analyse the representation of the female equivalent of this heroic *furor*, in the same poems. Because of the military definition of *furor*, this study will only take into consideration the female characters taking arms to go to war, hence leaving aside domestic violence or other forms of violence.

Guibourc, Ermengard, and the ladies of Orange

In the Cycle of Guillaume d'Orange, several women are described fighting alongside the Christians. Most of them can fall into two categories: the ladies fighting to defend their city (Guibourc and the ladies of Orange), and the noblewoman willing to lead an army to avenge her son and grandson (Ermengard). The gendered implications of these different positions are not the same: in the first case, women do not fully leave their traditional role as guardians of their homes and families, even though they do not perform it in a weak or mild way; whereas in the second case, the action planned is an offensive one.

Let us consider the first situation. The defense of a besieged city is a recurring motif in the *chansons de geste*:¹⁸ while the strongest fighters of the city are away at war, the weak who remained man the fortifications and hold off the aggressors with projectiles. Although it has not always been noted, it is common that the remaining in question are mostly women; in which case, they simply follow the motif and become the combatants throwing stones at the enemy down the walls.

In the oldest *chanson* revolving around Guillaume, the ladies' action stays at the discursive level:

As dos avront les blancs halbercs vestuz
 et en lur chefz verz healmes aguz;
 si esterrunt as batailles la sus,
 lancerunt lances, peres e pels aguz.¹⁹

'They will put the white halberks on their backs and pointed green helmets on their heads; they will stand firm up on the battlements, and throw down lances, stones and sharp stakes.'²⁰

The military equipment the women would wear was complete and identical to that of the best knights. This action that the ladies would undertake is described at the future tense by Guibourc, when she intends to reassure Guillaume that the city will not be left unattended in his absence. The ladies' role is thus of utmost importance, even though it is not mentioned again after this speech; instead it is implied in the later course of the narrative. The weapons evoked are regular in this context, and the ternary rhythm '*lances, peres e pels aguz*' ('lances, stones and sharp stakes') amplifies the ferociousness of the expected onslaught.

Even if their act of defense is not narrated later in the poem, the repetition of the motif is notable, confirming that even in an old poem such as the *Chanson de Guillaume*, women could play a significant military role. It also places emphasis on the agency of the ladies of Orange, who several times take part in the protection of their city throughout the Cycle. In the *Moniage Rainouart*, their defense is not hypothetical, but actually happens in the poem:

Dame Guibors ot lacié l'elme cler
aveuc les dames, qui mout font a loer;
la veïssiés mout asprement jeter.²¹

'Lady Guibourc is wearing a shiny helmet, as well as the other ladies, who are really worthy of praise; one could have seen them throwing with a great fierceness.'²²

The notation '*mout asprement*' denotes the *furor heroicus*, combined with the formulaic expression of their nobility. The ladies are actually fighting, but only *Aliscans* unites both the required conditions of the *furor*: the ladies fight and the result of their attacks is detailed.

Les dames ont mainte pierre jetee,
Meint Sarrazin ont la teste quassee,
Qui gisent mort, senglant, gole bae.²³

'The ladies threw down quantities of stones; many Saracens had their heads crushed and lay dead and bloody, their mouths open.'²⁴

The previous two examples did not give the result of their action, whereas this one insists on the bloodshed they provoke, and the violence is not euphemised anymore.

Still, this type of action differs greatly from the combats of male warriors, because throwing projectiles is considered less noble and brave than a sword-fight. This kind of noble duelling is, however, also present in the Cycle, through Ermengard's speech in *Aliscans*, which offers a completely different situation from the previous one, since she plans on meeting the enemy directly on the battlefield.

Puis que seré armee en l'auferrant,
N'encontrerai Sarrazin si vaillant
Que je ne fiere de mon acier tranchant.²⁵

‘As soon as I am armed and riding my valiant horse, there will be no Saracen I meet, no matter how brave, that I will not slay with my keen blade.’

As with the first example, the combat is not portrayed in the narrative, but it is nevertheless noteworthy for the fact that it depicts a woman as being identical to a male knight, armed with a sword, inflicting the same type of wounds, and slaying her enemies. This example is proof of the Cycle's women's high degree of self-confidence, a required quality for agency. Right before this depiction, Ermengard clearly states that her sex would not be seen as an objection to her joining the fight, but rather her old age, which she then also declines as a condition that would prevent her from going to battle. In this scene, gender is not considered at all as an impediment to women's fighting.

Maximou

The Byzantine warrior Maximou, who appears in the sixth book of *Digenis Akritis* and is explicitly related to the Amazons through a fictional genealogy, is a completely different character. For her, going to war is not an occasional activity required by the circumstances. On the contrary, she is fully endowed with the *ethos* of the warrior. She is also the commander of an army, which in terms of gender places her in a position to challenge the purportedly prevalent hierarchy between the sexes. Her agency is made clear several times in the epic, through her speeches to her soldiers and lieutenant, as well as through her own deeds.

In fact, there is a gradation in the display of Maximou's *furor* within the narrative. At first *furor* is discernible in her recommendations to her soldiers, then in her speech describing her own intended actions, and finally in the poet's narration during her fight with Digenis. In other words, *furor* is initially uttered on an enunciative plan and then actualised at the level of the *diegesis*, which strengthens its representation.

First of all, when she addresses her soldiers, her encouragement to fight acrimoniously is visible mainly in the E version of the text, a version whose tone is often considered to be more epic and less novelistic than the other major version of the text, commonly called the G version. Indeed, where G only depicts her instructing them to mount their horses and arm themselves,²⁶ the E version reads:

καὶ ὑπάγετε, σωρεύσετε χιλίους ἀπελάτας
καὶ ἀπ' τοὺς χιλίους μοῦ χάρισε κᾶν ἑκατὸν ἀγούρους
καὶ ὡς ἔχουν ἄρματα καλά, ἰπάρια ἀφιρωμένα,
καὶ ὡς εἶναι περιγυριστοί, νὰ κροῦν καλὰς ραβδέας
καὶ κονταρέας ἔμνοστας, σπαθέας αἱματομένας.²⁷

‘So go and collect a thousand guerrillas, and from the thousand select for me about a hundred youngsters: they should have fine weapons and armoured horses, and they should be well turned out, able to give good blows with sticks and splendid spear-thrusts and bloody cuts with the sword.’²⁸

The enumeration of all the weapons she compels the guerrillas to carry is not only here as an ornamental element describing the equipment needed; it also functions as a notion of the *furor* she wants them to show, because, as a parallel to all the qualities of the equipment listed (*ἄρματα καλά, ἵππάρια ἀφρωμένα*, ‘fine weapons and armoured horses’; etc.), she then insists on the blows their weapons are made to inflict: *καλὰς ραβδέας* (‘good blows with sticks’), *κονταρέας ἔμνοστας* (‘splendid spear-thrusts’), *σπαθέας αἱματομέννας* (‘bloody cuts with the sword’). This last adjective, *αἱματομέννας* (‘bloody’), explicitly invites them to spill blood on the battlefield and not to spare the enemy in any way. All of this is connected to her, since she is their commander, a role clearly marked in the poem by the pronoun *‘μοῦ’*,²⁹ ‘for me’ – this reminder of her leadership at this crucial point of her speech being far from fortuitous.

She prescribes violence to others, and expresses the violence she is ready to show herself, this time in both of the two oldest versions of the poem – manuscript G is dated ‘to the late thirteenth or early fourteenth centuries’,³⁰ and E to the late fifteenth century.³¹

Ἐγὼ μόνη καὶ μοναχὴ νὰ κατεβῶ εἰς αὐτόν,
νὰ κόψω τὸ κεφάλιν του καὶ ἐδῶ νὰ σᾶς τὸ φέρω.³²

‘Alone and on my own I’ll attack him, I’ll cut off his head and bring it to you here.’³³

ἄρῶ αὐτοῦ τὴν κεφαλὴν ὑμῶν μὴ δεηθεῖσα.³⁴

‘and [I] shall remove his head, without need of you.’³⁵

The repetition of an adjective insisting on her decision to face Digenis alone predisposes her to the *furor heroicus*, which most of the time implies the solitary exploits of a hero at war: *‘μόνη καὶ μοναχὴ’* (‘alone and on my own’), corresponding to *‘ὑμῶν μὴ δεηθεῖσα’* (‘without need of you’) in the G version. Furthermore, the beheading that is mentioned in both versions is a particularly violent death³⁶ and a sign of supremacy over a foe of noble birth:³⁷ a woman planning to impose such a death upon a man strongly hints at a *furor* that not only gives her a heroic *ethos*, but can also be understood in a gendered sense as a woman’s empowerment over male predominance.

Maximou’s *furor* is not limited to the discursive level; it is enacted afterwards during her real fight with Digenis:

Καὶ ὡς εἶδεν τοῦτο ἢ Μαξιμού, ἀπάνω μου ἐκατέβη·
κοντάριν ἐμαλάκιζεν τὴν κονταρέαν μὲ δώσει
καὶ ταῦτα τὸ κοντάριν τῆς ἔρισα παρὰ μία
καὶ σύντομα ἔρισα ραβδὶν, τὴν Μαξιμὸν ἐλάλουν.³⁸

‘When Maximou saw this, she charged at me; she wielded her spear to give me a thrust but then I instantly knocked her spear away and promptly knocked away her stick; I said to Maximou . . .’³⁹

The weapons used in this attack have their importance: Maximou uses a spear, 'κοντάριν', then a stick, 'ραβδίν', which is really a mace similar to those used by heroes like Herakles or Thor, the Norse god of thunder; such weaponry implies a raw style of fighting⁴⁰ and is a sign of Maximou's *furor*. Even more importantly, the fact that she uses one of Digenis' preferred weapons makes her his equal in combat and a serious opponent who could well threaten to replace him as a unique hero. The danger looks even greater as the candidate for this replacement belongs to another sex and gender, so that her victory would signal the advent of chaos because of the reversal of norms. The necessity for Digenis' victory is all the more crucial for a patriarchal audience: in such a system of thought, women's *furor* cannot be tolerated.

For this reason, her attack is stopped immediately by Digenis' incredible strength, and so her *furor* does not have time to fully develop. This is true of both the E version that we just quoted, and of the corresponding excerpt in the G version:

Ἡ δὲ, ὡς προηυτρέπιστο, προσαπαντᾶν δραμοῦσα
κονταρέαν μοι δέδωκεν ξυστήν εἰς τὸ λουρίκιν·
καὶ μηδαμῶς ἀδικηθεὶς ἔκοψα τὸ κοντάριν.⁴¹

'Since she was already well-prepared, she ran to meet me and struck me a glancing blow on the breast-plate with her spear. I was not hurt at all, but I broke her spear.'⁴²

The syntax itself illustrates female violence and agency: all the verbs are conjugated in the third person singular, with feminine grammatical agreements ('προσαπαντᾶν δραμοῦσα', 'she ran to meet me', and 'μοι δέδωκεν', 'struck me'). The *furor* is all the more obvious because two fights take place in both versions, underlining Maximou's pugnacity; the clearest signs of Maximou's *furor* indeed appear in the second duel in G:

ἄνω καὶ κάτω πρὸς μικρὰν διαδραμόντες ὄραν·
κονταρέας δεδώκαμεν, μηδενὸς κρημισθέντος.
Χωρισθέντες οὖν παρευθὺς εἰλκύσαμεν τὰς σπάθας
καὶ κρούοντες ἐνστατικῶς, ἐμπεσόντες ἀλλήλοις.⁴³

'[We began to do battle], charging up and down for a little while; we exchanged spear-thrusts, with neither being unseated. So, quickly separating, we drew our swords and began to strike persistently, attacking each other.'⁴⁴

Contrary to the first duel in G, this second encounter describes Maximou's actions through first-person plurals ('κονταρέας δεδώκαμεν', 'we exchanged spear-thrusts', 'εἰλκύσαμεν τὰς σπάθας', 'we drew our swords'), and points differently at her agency since her actions are not singular anymore, but so identical to Digenis' movements that he and Maximou both merge into one single active entity. Gender is not a source of linguistic issues for most of the verbs of action used here, as conjugated Greek verbs do not vary in gender, and as the active participle is in a

mixed form ending in ‘-ντες’ (‘διαδραμόντες’, ‘charging’, ‘χωρισθέντες’, ‘separating’, ‘κρούοντες’, ‘striking’, ‘έμπεσόντες’, ‘attacking’). One of the few conflicts in grammatical agreement occurs with the adjective ‘άλλήλοις’: although the group formed by Maximou and Digenis is composed of a man and a woman, the adjective is at a masculine form, as a result of the traditional domination of the masculine gender even at a grammatical level, a rule that is persistent in many languages including Byzantine Greek, as is obvious here. But from a literary point of view, the interesting consequence is that Maximou is thus assimilated to a man through her way of fighting, meaning her skills are identical to those of the great hero of the epic. This is even leading to the use of a masculine singular applying both to Digenis and Maximou, ‘μηδενός κρημισθέντος’, ‘neither being unseated’, completely transforming Maximou into a male warrior. The violence she performs thanks to this agency is unequivocal with the accumulation of verbs of attack, reinforced by the adverb ‘έστατικῶς’, ‘persistently’.

Despite all these elements, the female *furor* appears to be as lessened as possible:

καί πλησίον γενόμενοι ήσπασάμεθα ἄμφω,
 χαίρετίσαντες, ὡς εἰκός, ἀλλήλους παμφιλτάτως,
 τῆς μάχης τε ήρξάμεθα λαλήσαντες τοῦς ἵππους.⁴⁵

‘And when we came near we both embraced, greeting each other in a most friendly fashion, as was right, and we began to do battle, encouraging our horses.’⁴⁶

This presentation of a well-organised and civil duel instead of the bloodthirsty savagery characteristic of the battlefield aims at mitigating the dreadful aspects of war, a technique frequently used in the epic according to Florence Goyet.⁴⁷ This tendency to soften the horror of war sets the stage for the courtly episode that will follow between Maximou and Digenis. It also neutralises the danger embodied by the Amazon for a patriarchal audience: this theory has become a classic interpretation of Amazon myths, according to which such myths symbolise men’s fear of a women’s rise of power. But the epic, I would argue, goes further because it enables a reflection on gender binarism: by showing a confrontation between two equally strong protagonists, one male and one female, and the quick victory of the former over the latter, the epic helps reveal the paradox of essentialism, since the discrepancy is so disproportionate between the two opposite results of the exact same action.

Gordafarid

In the *Shahnameh*, the young Sohrab, born half-Iranian half-Turanian, makes an alliance with Turanians and attacks a castle in Iran on his way to find his Iranian father, Rostam. This fortress is defended by a general who fails to repel Sohrab and his army, until Gordafarid, the castle’s lord’s daughter, decides to go defend the place herself. Gordafarid is in the same situation as Maximou, since she fights sword in hand like her but only faces the hero of the episode she appears in,

Sohrab, resulting in her defeat against him – although she finally wins with a trick. Nevertheless, in her presentation, numerous signs of a military superiority and a taste for war are present:

زنی بود برسان گردی سوار همیشه به جنگ اندرون نامدار⁴⁸

'She was a woman who looked like a great knight and was famous for her military deeds.'

This statement is similar to the one used for Maximou in G: *'βίον ἀεὶ τὸν πόλεμον καὶ τέρψιν ἠγουμένη'*,⁴⁹ '[she] always considered battle to be her life and delight'⁵⁰: both of them possess the *habitus* of the warrior. In fact, unlike the ladies of Orange, Gordafarid is explicitly depicted as a well-trained young woman often taking part in battles. Moreover, she carries warfare in her own name through the word 'gord', meaning a 'hero' or 'champion'. This etymology is somewhat underscored in this line and in the one that follows immediately:

کجا نام او بود گردآفرید که چون او بجنگ اندرون کس ندید

'Her name was Gordafarid; no one had ever seen anybody who fought like her.'

Not all versions of the text include the second part of this verse – they instead contain the sentence 'no mother had ever given birth to anyone like her' – even though it is at the core of her personality.

This predisposition for war also leads her to a frenzy of fighting, as made obvious in the next lines:

به پیش سپاه اندر آمد چو گرد که گردان کدامند و جنگاوران
چو رعد خروشان یکی و بیه کرد دلیران و رزم آزموده سران⁵¹

'[With the swiftness of a lightning bolt, she came to the army and uttered a roar as terrifying as thunder]: "Where are your heroes, your warriors, your tried and tested chieftains?"'⁵²

The war cry is a powerful fighting technique, only used by the greatest heroes. In the Western epic tradition, Achilles after Patroclus' death shows himself unarmed to the Trojans and shouts a deep and loud cry, causing them all to flee in panic, many of them finding their deaths in the process. In the *Shahnameh*, the war cry is a typical feature of Rostam as the strongest hero of the epic; he uses it for example to stun the savage mare protecting her foal Rakhsh and preventing him from capturing his future mount, or in his duel against Juyan during Key Kavus's war in Mazandaran. The war cry is used to frighten the enemy, as a sign of the physical strength of the person who uttered it; its dreadful vehemence is materialised by the comparison with thunder. Gordafarid not only wears an armour and weapons, but has a body shaped as the bodies of the greatest warriors: even her physical qualities transcend gender boundaries. The provocation to the enemy that follows

this roar, with its accumulation of plural apostrophes (گردان, 'heroes', جنگاوران, 'warriors', دلیران, 'braves', etc.), shows her readiness for a warlike fury.

Her actions are in accordance with her words, because as soon as she catches sight of Sohrab approaching, she replies with a sharp attack:

بیامد دمان پیش گردآفرید چو دخت کمندا فگن او را بدید
 کمان را به زه کرد و بگشاد بر نبد مرغ را پیش او بر گنر
 به سهراب بر تیرباران گرفت چپ و راست جنگ سواران گرفت⁵³

'[He] galloped out to face Gordafarid. When she saw him, she took aim with her bow (no bird could escape her well-aimed arrows) and let loose a hail of arrows, weaving to left and right like an experienced horseman as she did so.'⁵⁴

The metaphor of the hail of arrows, literally a 'rain' (باران) of arrows, reveals the *furor* that seizes her and makes Sohrab feel ashamed because he has to cover his head with his shield and wait for it to stop. Contrary to its possible connotations of cowardice or malevolence in the Western tradition, the bow was a noble weapon in Ancient Persia, one that symbolised sovereignty and was widely used for both hunting and battle.⁵⁵ Several male heroes of the *Shahnameh* have a predilection for it, like Siyavosh or Bahram-e Gur the hunter king, and also the great lord Sam at war; all of them are among the best fighters of the epic, Gordafarid is therefore as talented as those representatives of a triumphant virility. She then uses other weaponry as well, namely the spear and sword, demonstrating her mastery of a wide range of fighting skills.

Gordiyeh

Gordiyeh appears in a much later section of the *Shahnameh*, and she does not go to war until late in her story. Sister of the governor of Ray, Bahram Chubin, she first appears as a counsellor to her brother, not hesitating to tell him when he is wrong, and thus assuming an important political role. Her main active part starts at her brother's death, when she is left with his influential and territorial legacy to protect. This legacy has aroused greed, and soon enough the Khaghan of China offers her a matrimonial alliance, which she decides to decline. Compelled to leave after this dangerous refusal, she commands her army to escort her and puts on an armour herself. She is then reached in her flight by a Chinese chief called Toborg, whom she faces and defeats in a duel.

The consequence of this late participation in a war is that unlike Gordafarid no formulas of introduction as a warrior are used for Gordiyeh; but the important singularity of Gordiyeh is that she kills her enemy. What is more, Gordiyeh also has the word '*gord*', 'champion', in her name, and she proclaims her mastery in the art of warfare⁵⁶ before exercising it against Toborg and finally slaughtering him:

بیگفت این و زان پس برانگیخت اسپ - پس او همی تاخت ایزدگشسپ ،
 یکی نیزه زد بر کمر بند او که بگذاشت خفتان و پیوند او
 [چو از پشت باره در آمد نگون همه ریگ شد زیر او جوی خون]⁵⁷

'[Having said so], she urged her horse forward, and Izad-Goshasp rode behind her. She lunged with her lance at Tovorg's waist, and split the fastenings of his armor, piercing his body.'⁵⁸

'As he dropped from the back of his steed the sand beneath him became a river of blood.'⁵⁹

Gordiyeh has managed to isolate Toborg from his army and she leads the duel herself, with her lieutenant Izad-Goshasp accompanying her, but not interfering. One thrust is enough for her to knock her enemy dead, and the force of the impact is visible through the rapidity of the action and the progressive movement from his 'waist' ('کمر بند', literally 'his belt') to his 'armor' ('خفتان') and 'body' (in Dick Davis' translation, either translating 'پیوند', understood as the 'joints of the bones', the 'articulations' (Steingass' dictionary), or added to clarify the meaning of the verb 'گذاشتن', 'to go through'). The third line, which is not included in the main part of the text by Djalal Khaleghi-Motlagh, but taken from another manuscript and given in a footnote, increases the violence of her strike and of the whole bloodshed orchestrated by her; the lines that follow this excerpt recount the massacre perpetrated by her army among the enemy's ranks while she is facing their chief. Like Maximou, she has men under her command and urges them to spill blood, as she does. She fights the strongest and noblest of the opponents' army, and leaves the rest of them to her lieutenants and soldiers. In terms of gender, she is men's equal in the violence shown at war, and she is also their superior by giving them orders that go against the prevailing view of women's allegedly submissive and sympathetic nature. Notably enough, this is not the end of her story, and several other episodes then occur, where she marries an Iranian lord and then murders him in order to marry King Khosrow Parviz, thus concluding a political alliance with him.

Conclusion

The comparison between three epics taken from different language spheres reveal that, in several literatures, violence is not exercised solely by male characters; on the contrary, many women perform various acts of violence. The type of acts this paper focused on are not the only manifestations of their capacity to be cruel and ferocious, but they possess the particularity to belong to a field where men are usually thought to be the only ones involved: war. It is also a type of violence that enhances their agency and allows to balance the usual medieval stereotype of women, seen as savage beasts hidden in beautiful bodies: the *furor heroicus* is an opportunity to relate their violence to their courageousness, instead of a purported evil nature.

All the cases of female *furor* that have been studied are intense: Guibourc and the ladies of Orange kill a lot of enemies, while Maximou, Gordafarid, Gordiyeh, and hypothetically Ermengard confront strong opponents of noble-birth and fight offensively on horseback with noble weapons such as the spear and sword. Despite all these major characteristics of *furor*, other narrative elements strongly reduce its extent, such as the quick disappearance from the story of the lady or

maiden fighting, the restriction to a defensive attitude for some of them, and the vastly different scale on which the female *furor* appears compared to that of men, proportionally speaking. This is complicated by the different narrative functions occupied by the female warriors in these epics: sometimes adjuvants, sometimes opponents to the main heroes, sometimes both, when the hero they face is himself an opponent to other heroes.

Thus, there is a contrast between these women's incredible strength and determination on the one hand, and the general tendency of the poems to hide their deeds and make them look less consistent than those of men, on the other hand: the women fighting are as strong as their male counterparts, but their actions do not receive the same space and emphasis. This contrast and difference of treatment, for two categories of equally strong characters, creates a contradiction that leads to put gender binarism under inquiry: this is the process used by epic writing, that places two opposing viewpoints in front of one another, in order to reveal the tension between them and eventually initiate a reflection about a third option that had never been imagined before⁶⁰ – in this case, a possible road towards gender equality and the partial, if not total, refusal of essentialism. The idea that women are not prevented from fighting by a supposedly inadequate nature, but by society and its prejudices, may have well been present in those cultures of the past already. One must add that the women demonstrating some *furor* in the poems do not switch gender to become identified as men: they stay feminine according to the canons of the time, and this is true for almost all of them (Gordafarid's hair accidentally streams out, Maximou wears delicate clothes under her armour, Gordiye shows her charming face from beneath her helmet, and so on). They are equal but not identical to men, thus leading to a diversity that precisely defies essentialism and the gender partition of society.

Notes

- 1 This paper is a shortened and updated version of a chapter taken from my PhD dissertation. I would like to thank the organisers of the 'Women and Violence' conference for giving me the opportunity to publish it here. I also wish to thank the reviewer for the many useful comments on my paper.
- 2 Only two of them possibly contain the name of an author, but Gerald A. Bertin believes the proper names mentioned in them are fictitious (Bertin 1973, pp. LXI-LXXIII).
- 3 For an explanation of this estimated date of composition, see Jeffreys 1998, p. lvi.
- 4 This concept, whose name can already be found in the Middle Ages (Dumézil 1942, pp. 16–23, cited by Michel 1981, p. 522), has been primarily developed by Georges Dumézil (1942, 1969) who described it as an Indo-European feature of the hero. It has then been applied to various epic traditions, from Irish to Greek, German, French, Persian and other literatures (see for example Henry 1982, and Birkhan 2006, cited by Willis 2015, p. 332).
- 5 Dupont 1985.
- 6 On the hyperbolic aspects of heroism, see among others Madelénat 1986, and Nagy 1979.
- 7 Galatariotou 1984/1985, p. 66.
- 8 Garland 1988, p. 364.
- 9 After having studied the survival of Zoroastrian gendered customs within the following centuries, Jamsheed K. Choksy (2002, p. 103) concludes: 'Within that setting, it

continued to be suggested that societally-defined feminine traits such as domesticity, maternity, submissiveness, and piety were best for women – as reflections of the roles of holy female spirits who maintained religious order – and that public roles, authority, and leadership were at least inappropriate and even possibly dangerous – as reflections of the roles of evil female spirits who spread disorder’.

10 ‘He said, ‘Send me to men of proven sense,

To councilors of deep experience,
To those who’ll teach me how to fight, who know
How I should wield a sword, or shoot a bow,

(. . .)

What will I gather from your women’s quarters?
Since when has wisdom lived with wives and daughters?’’

(Davis 2007, p. 218)

11 Fritz 1992, pp. 88–91.

12 Cassagnes-Brouquet 2013.

13 Garland 1988.

14 Berkey 2013, p. 59.

15 *Digenis* G 4: 638.

16 *Sh*: 139–142 p. 114 vol. 2.

17 *Chanson de Guillaume*: 575–577.

18 Martin 2017, pp. 146, 316, 358.

19 *Chanson de Guillaume*: 2446–2449.

20 Bennett 2000, p. 149.

21 *Moniage Rainouart I*: 1951–1953.

22 Unless otherwise specified, translations are mine.

23 *Aliscans*: 4201–4203.

24 Ferrante, p. 234.

25 *Aliscans*: 3143–3145.

26 *Digenis* G 6: 434–437.

27 *Digenis* E: 1402–1406.

28 Jeffreys 1998, p. 343.

29 *Digenis* E: 1403.

30 Jeffreys 1998, p. xviii.

31 Jeffreys 1998, p. xx.

32 *Digenis* E: 1523–1524.

33 Jeffreys 1998, p. 351

34 *Digenis* G 6: 567.

35 Jeffreys 1998, p. 185.

36 Tracy and Massey 2012, p. 2.

37 Tracy and Massey 2012, p. 4.

38 *Digenis* E: 1539–1542.

39 Jeffreys 1998, p. 353.

40 Dumézil 1969.

41 *Digenis* G 6: 584–586.

42 Jeffreys 1998, pp. 185–187.

43 *Digenis*, G 6: 744–747.

44 Jeffreys 1998, p. 195.

45 *Digenis*, G 6: 741–743.

46 Jeffreys 1998, p. 195.

47 Goyet 2006.

48 *Sh*: 178 p. 132 vol. 2.

- 49 *Digenis* G 6: 389.
 50 Jeffreys 1998, p. 175.
 51 *Sh*: 183–184 p. 132 vol. 2.
 52 Davis 2007, p. 191, for the second line. In his translation, Davis does not include the first of these two lines entirely, which is why his translation has been kept only for the second line (the first line's translation is mine). Here is the complete text he gives, mixing the first line with the previous one – both of them pointing at Gordafarid's *furor*, by the way: '[she] rode out from the fortress, a lion eager for battle. She roared at the enemy's ranks: "Where are your heroes, your warriors, your tried and tested chieftains?"' (Davis 2007, p. 191).
 53 *Sh*: 189–191 p. 133 vol. 2.
 54 Davis 2007, p. 192.
 55 Roux 1995, pp. 197–200.
 56 *Sh*: 2847 p. 216 and 2861–2863 p. 217 vol. 8.
 57 *Sh*: 2865–2866 p. 217 vol. 8, and third line in note 27 p. 217 vol. 8.
 58 Davis 2007, p. 803.
 59 Levy 1967, p. 373.
 60 Goyet 2006.

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3 Reflections on women's behaviour in war contexts in communal Italy (twelfth–thirteenth centuries)

Alberto Luongo

Gender and experience

A specific focus on the experience of women in war in Communal Italy is, of course, not new. In 1990 Megan McLaughlin, in her article *The Woman Warrior: Gender, Warfare and Society in Medieval Europe*, noted that:

It has become clear that if we are to understand how gender affects experience and, conversely, how experience affects notions of gender, we must do more than document the divergence or convergence of culturally defined roles and actual behaviour. We must examine the process of interaction between the two.¹

These words remain fully valid today. Historians have taken many steps forward both on the history of gender in medieval culture and imagination, and on the actual lived experiences of medieval women. Conceptions of gender and actual lived experience are, of course, two different things. The first represents what the male dominant culture expects women to be, while the second deals with the actual behaviours and social conditions of women.² Nevertheless, the theoretical and the actual influence each other. It is impossible to understand actual female experiences without considering the gendered filters that the majority of the medieval sources – even notarial or judicial records – interpose between them and the historians. Understanding how gender regards and affects women is necessary to properly assess the sources we are using.

This approach has recently succeeded in overcoming the exceptionalist paradigm regarding women of power in the Middle Ages. As Heather J. Tanner, Laura L. Gathagan and Lois L. Huneycutt asked in 2015:

[W]hy, after three decades of historical advocacy, of producing and teaching excellent books and articles bringing to light of dozens of women whose political behaviour fails to fit modern assumptions of medieval women's experience, were we still hearing papers describing powerful women in positions of authority as exceptions to the norm? How many 'exceptional' women in positions of authority does it take before powerful elite women become the rule? [. . .] elite women in positions of authority in the central medieval

period were expected, accepted, and routine. The routine nature of a woman exercising power does not mean that every woman was successful, or that a particular woman might not face challenges to her authority. It does not mean that misogyny did not influence medieval culture, both lay and ecclesiastical, at every turn, and at every level on the social spectrum much as it does today. It does recognize that the texture of medieval women's control and influence was incredibly varied and situated in virtually every locus of medieval life. Women used myriad strategies to gain their objectives. These included the 'hard' power of martial authority, directing and commanding militias and soldiers, and the soft power of diplomacy and social pressure.³

The role of medieval women in politics and warfare, two spheres that are tightly connected, is one of the most powerful spheres in which we can challenge common misconceptions around gender and women in history,⁴ even if this process tends to revolve around noblewomen, for whom social status often prevailed over gender identities.⁵ It is not a coincidence that almost all the women of power who have been singled out for their involvement in armed conflicts by scholars – with the exception of Joan of Arc⁶ – are queens, noblewomen, and wives or widows of feudal lords.⁷ In the case of Italy we can look to Mathilda of Tuscany and Sikelgaita, the wife of the Norman duke Robert Guiscard, who are by far the most commonly cited examples.⁸

The place of women in the Italian city-states

When we move to the world of the city-states the historiographical framework on women and war becomes much leaner, because, as Martha C. Howell wrote,

the operative prejudice was not against women rulers as such [. . .], but against freeing women from the patriarchal authority lodged in families. Understanding this fact, we can now better understand why Margaret of Burgundy could have governed the Low Countries and perhaps why Caterina Sforza ruled Milan precisely at the time when not a single one of the successful craftswomen and merchants of Cologne or Frankfurt or Bruges even sat on their town councils. The former belonged to a political system in which property and political power were linked through family ties; the latter women lived in a world where those knots had been cut.⁹

The generally accepted view is that in towns ruled by collective and elective institutions, women generally did not have the opportunity to help or replace their husbands, fathers, or sons in their offices and to achieve decision-making and military power.¹⁰ In the last thirty years, however, studies by Howell,¹¹ Patricia Skinner,¹² Thomas Kuehn¹³ and Julius Kirshner¹⁴ on female citizenship allow us to approach the issue with much more nuance. Kirshner,¹⁵ in particular, suggested going beyond the exclusion of women by the public offices, identifying for them a group of other rights and conditions which made them fully-fledged citizens, with an effective and

widespread agency in the economic life of the town. The most recent research on communal Italy now confirms that beyond the cultural and legal barriers women faced,¹⁶ they often managed to stand out in the workplace, in money lending, and in the management of more or less large properties and money assets.¹⁷

After studying the case of Gubbio through the large number of notarial records available for the fourteenth century, I wondered if such a variety of conditions compared to those normally accorded to medieval women could also exist in the political and military spheres, even if only outside of formal power structures.¹⁸ In the case of Gubbio I became aware of the fact that the only voice against the communal politics that I had found was the voice of a woman included in a criminal record of 1382. She addressed the communal army who was leaving to fight against the enemies of the countryside wishing the soldiers to die.

There are, of course, other locally famous episodes of women who directly participated in the political and military life of the communal towns of twelfth and thirteenth centuries. Unfortunately, they have typically been considered in isolation, and were treated more like curiosities rather than serious opportunities for analysis, comparison, and reflection. The remainder of this chapter will engage in this necessary process of comparative history by focusing on three episodes of female participation in warfare acts, broadly understood as ‘anyone who participates actively in warfare, whether or not the person ever wielded a sword’.¹⁹ The sources available for these examples – two chronicles and a judicial scroll – do not always allow us to establish the factual reality of the episodes without any doubt. They nevertheless suggest a good amount of complexity that, as far as I am concerned, makes it unwise to remain totally sceptical about them.

Ancona, 1173: women braver than men?

The first episode, maybe the most famous of the three, is set during the siege of Ancona by the army of the emperor Frederick I in 1173. It is told by Boncompagno of Signa in his *Liber de Obsidione Ancone*, which was written about thirty years after the siege using the reports of eyewitnesses.²⁰ There are at least three moments of the siege in which we can see an active participation by the women: the most highborn example, and therefore told by other chronicles too, is the one of Aldruda, countess of Bertinoro, in Romagna, who led her army to help the town under siege.²¹ I will not say anything about her because she was the widow of a feudal lord and therefore fall outside the scope of this study on middle-class women.

Let us consider the other episodes instead. While the inhabitants of Ancona were trying to expel the imperial army, who had broken through the city walls, someone threw a barrel full of resin and pitch near a woodpile next to the siege engines, but nobody was brave enough to fire it. Suddenly Stamira, a widow, grabbed with both hands an axe and broke the barrel; then she lighted a torch and kept firing the woodpile until it finished destroying the engines, and that was ‘per audaciam viraginis, quam prelii crudelitas et pugnantium furor terrere minime potuerunt’ (‘because she had the bravery of a virago, whom the cruelty of the battle and the fury of the enemies could never frighten’).²²

The siege however went on and Boncompagno tells that women were urging the men to fight, and they did it so strongly that it seemed they had the bravery of a man. Here we can see one of the classic functions that the medieval male mentality assigned to women in a war context, namely the moral and religious support of male fighters. However, Boncompagno goes further by describing the spontaneous reunion of the women of Ancona in an assembly ('domine civitatis in contionem venerunt',²³ in which they deliberated offering themselves as a meal to their male compatriots, rather than fall in the enemy's hands. A widow let even someone draw her blood to feed her fighting sons. The chronicler praises the behaviour of the women of Ancona, which is in contrast both with the weakness and the fickleness of their sex, and with the conduct of the women of Jerusalem in the time of the siege by the Roman emperors Titus and Vespasian. The women of Ancona were more like the mother of John Hyrcanus in the Old Testament, who had been hung by the wall of the castle of Doq with two of her children to convince him not to continue the siege and ordered him to kill them the same. The women of Ancona were a role model for the men, who kept fighting with more and more bravery and finally managed to break the siege.²⁴

At first reading one cannot help but consider these episodes as fictional products of one of the most important masters of rhetoric of his age,²⁵ who shows us the women as viragos and rate their bravery through examples taken from the classic literature and the Old Testament; but if we look more closely we can propose at least two remarks: the first remark was suggested by Paolo Grillo,²⁶ who observed that nothing in the text of Boncompagno describes the actions of the women as negative or suggests that they wanted to usurp the role of the men. The women of Ancona remain mothers and wives who in case of emergency join their men to defend their own community from an external threat. This does not fundamentally challenge their social or gender roles beyond the limits of the emergency in question.

Grillo's remark acquires even greater value if we look at the context in which the *Liber de Obsidione Ancone* was written, as Paolo Garbini²⁷ and, more recently, Enrico Faini²⁸ have done. The work was created to celebrate the power of Ancona over the surrounding region, the March of Ancona, and was read in public in 1201 after the arrival of the new *podestà* (the main political, judicial and military official of an Italian commune) Ugolino Gosia, for whom Boncompagno worked as one of his officers. As noted by Garbini,²⁹ Gosia commissioned the text to Boncompagno to advertise the heroic virtue of Ancona and its new *podestà*, using the siege as an *exemplum*. The text was also intended to reassure the previous political class on the future administration of the city and the qualities of the new official. He is portrayed as a celebrated knight and a skilled lawyer, coming from a prestigious family with a strong tradition of legal studies.³⁰ Thus, even if the work was commissioned by a particular person, it was written in such a way so to appeal to a broad swath of Anconitans, thus giving us some sense of commonly held beliefs and ideals. Why would the text so frequently celebrate the courage of women as opposed to men if there was no basis of truth in their active involvement in the siege? It is also very likely that the eldest citizens still remembered

the battle, and would have rejected sorties of women flaunting virility if there was no truth behind them.

Therefore, while it is not impossible that Boncompagno's tale is just fictional rhetoric, this seems unlikely, even if we accept that ideas of gender would necessarily have influenced how the roles women played would be described in the text. Of course, the behaviour of the women is likely to be linked to the one of the admirable woman described by Christine de Pizan through the example of the Amazons, 'grieving widows, devoted mothers, admirable virgins, and worthy to be the wives of great heroes'.³¹ However, I am not sure that in the words of Boncompagno the men could be considered like great heroes before being prompted by the women. While this case study is somewhat problematic with regard to its sources, it is supported by looking at our further case studies.

Siena, 1260: an aggressive – and politically engaged – camp follower

The second case study occurs during the battle of Montaperti,³² in which the Ghibelline Siena defeated its Guelf archenemy Florence (Guelfs and Ghibellines were the two political factions – the first on pope's side, the second on the emperor's side – which actually were fighting for internal reasons in almost all the Italian cities of the second half of thirteenth century). Here too, the first report of the battle, written by an anonymous chronicler, comes forty or fifty years after the fact. The anonymous author tells us that after the end of the fight, a woman named Usilia, a *treccola*, that is an itinerant grocer who had joined the army as a camp follower, reached the battlefield and caught 36 Florentine prisoners: 'e Usiglia treccola ne menò trenta e sei, presi e leghati a una benda, inperoché tutti quegli che non si volevano arendere, tutti erano morti' ('and Usilia treccola led thirty-six prisoners tied up in a rope, because those who did not want to surrender, they were all dead').³³

In the fifteenth century this story would have been enriched with more details, making this woman some kind of symbol of redemption and mockery towards the Florentines: according to the version by Paolo di Tommaso Montauri, Usilia was riding a female donkey that had been thrown by the Florentines over the walls of Siena with their trebuchet, the prisoners taken by her followed her like chicks behind a hen, and she became rich earning almost 650 golden florins from the ransoms. Montauri concludes: 'or pensate come facevano li omini quando una femina trecola ne menò quanti avete udito di sopra!' ('if a female grocer managed to catch so many prisoners, think of what the men did!').³⁴

Again in this case, in particular in its larger, later version, we could think of it as rhetoric rather than factual history, if we did not know that Usilia's real existence is certified without any doubt in some documents of the communal archives of Siena. She is expressly named in the fiscal records called 'the *Biccherno*' of 1249, where she is exactly called 'Usilia treccola',³⁵ and in the record of the goods confiscated to the Ghibellines of 1281/1282. This last information confirms the reality of her active support to the Ghibelline party, to such an extent that she was banished from Siena and deprived of her goods when the Guelfs managed to stifle

a Ghibelline riot. Archival documents testify her name, her job and her political belief and activity and, as far as I am concerned, this is enough to assume at least a kernel of truth to this episode too, in particular in the first version. The case of Usilia is obviously placed after and outside the actual moments of fight, but it refers to one of the main traits of the war economy of that age, namely taking prisoners to collect the corresponding ransoms. Being a woman and a non-fighting camp follower, almost certainly politically engaged, did not prevent her from engaging with the war-oriented and political atmosphere of her historical time and personal circumstances.³⁶

The battle of Montaperti was one of the most important moments in the decades-long conflict between Guelphs and Ghibellines.³⁷ The conflict continued in various forms, even when there were no overt battles being fought. For example, in 1280 the Guelph commune of Prato condemned a group of at least nine people, among them four women, for stealing a prisoner to a man who was taking him to the local court to earn the bounty. The group, which also involved two cousins of Dante Alighieri (Geri and Cione del Bello), beat and assaulted the man with weapons in the countryside outside the town, seriously wounding his wrist with outflow of his blood. Considering the fact that many of the attackers were relatives, Giuliano Milani has convincingly interpreted this episode as an attempt to steal a prisoner to a kinsman, in a time in which a special law on the capture of the Ghibelline bandits was in force.³⁸ Politics, violence and profit in a context of latent war were still strongly interconnected, and women were deeply involved together with men.

Umbrian countryside, 1296: a vigorous peacekeeping

The last episode that I would like to mention has been recently reported by Alesio Fiore³⁹ and explored in detail by Jean-Claude Maire Vigueur.⁴⁰ In the summer of 1296 the commune of Assisi sent a group of armed reapers into the fields of the villages of Rocca Paidà, Armenzano and Trevigliano, in the county of Spello. The men of Assisi had been given the task to reap the grain on the properties that the commune had recently bought from a citizen of Spello. The inhabitants of the three villages considered those fields as of collective use and about forty of them, among which about fifteen women, gathered in front of the local church of San Giovanni in Rocca Paidà and decided to face the reapers bringing various types of weapons, not only sickles or pitchforks but even spears and bats. The women gave their contribution by carrying the equipment of the men. When the tension between the two groups reached its pinnacle, the women, with the help of a few men, managed to prevent the worst from happening; they did it not by begging or persuading the men, but by physically interfering to stop their husbands and sons. Santuccia Ricchi managed to catch and take away the spear of a man of Armenzano while he was starting to attack the reapers, and another anonymous woman blocked the way of another man who was going to fight. In general, all the group of the women acted to calm things down. When a group of a hundred men reached the fields to help the men of Assisi, there was no longer a need to fight.

We know these facts because a report of the witness statements survived in a series of scrolls held in the archives of Assisi. The scrolls are principally concerned with the subsequent trial on the use of those fields.⁴¹ Among the witness accounts we find, unusually, one of a woman who took part in the fight, *Venturella Petri*. Her account is the only one out of 27 which told the crucial role of the women and many other details of what happened in *Rocca Paida*:

Posuerunt se in medio et detinebant suos [homines] et mediabant utramque partem; et fecerunt ibi bonum et non malum et (. . .) diviserunt metitores ab hominibus dictarum villarum ita quod non potuerunt se iungere, nec aliquod mali inter se facere.

‘[The women] got in the way, held back their man and negotiated between the two groups; and they did well and not bad (. . .) because they separated the reapers from the men of the villages preventing them to hurt each other’.⁴²

Once again, the document we are using is spoiled by the misogyny of that age, because not a single male witness bothered to mention the presence of the women. Nevertheless, the exception of the deposition of *Venturella* tells us something about the importance of their active attendance to the political life (the assembly in front of the church) and to the military operations (the logistical support at the beginning and the final peace-keeping action) of their community. As noted by *Maire Vigueur*,⁴³ it was not necessary for the women, as well as for the men, to be officially inside the political institutions to play an active role on the political stage.

Conclusion

To conclude, I think that the comparison between the three cases allows to start to assume an expected and, to some extent, ordinary active participation of women in the political and military life of the Italian communes in the twelfth and thirteenth centuries, both in towns with tens of thousands people and in small rural villages: again *McLaughlin* in her famous article on the medieval woman warrior wrote that,

[I]n areas such as Flanders and Italy, which experienced rapid urban growth between the eleventh and the fourteenth century, urban militias, organized on the basis of residence in a particular quarter of the city, began gradually to replace [. . .] the feudal band. The long-term effect of this change was to minimize the role of the older domestic military unit – and thereby the role of women. I have found no reference to women fighting with these urban militias, although it is possible that they did so in the most extreme emergencies.⁴⁴

It is definitely possible to measure the level of exceptionality of this participation if we consider it as mostly linked to military emergencies,⁴⁵ but I believe that this could be, at least partially, resized by thinking of the definition of the medieval

peace by Franco Cardini:⁴⁶ peace might mean a simple break between two wars. In this perspective, a long siege is maybe more exceptional⁴⁷ than a fight or a battle, but always – and that is the real point – in a context of widespread violence inside which everyone, males and females, were living every day. This was true not only in feudal cultures, but also in the Italian communal towns. Both the aristocracy (the so-called *militia*) and the middle class (the so-called *Popolo*) learned to fight in youth, with aristocrats fighting from horseback, and the other classes in the infantry.⁴⁸ So indirectly – and maybe unintentionally – this state of constant warfare influenced how women engaged in war-related activities.⁴⁹ In a cultural environment in which war and violence were so highly pervasive there were many roles that women could play in war that did not involve combat. Starting a crucial reaction against the besiegers (Stamira), taking prisoners from the defeated rival army (Usilia) or (the women of Rocca Païda) preventing a fight with clear political nuances (maybe perceivable as a small war in that particular context), are all active situations that convey something more than a generic and sheltered supporting role offered by women to men. The fact that men wanted to exclude women from politics and warfare did not necessarily prevent women from being a part of them, albeit under certain conditions and outside the official institutions and army ranks.

It is in any case important to remind, by way of a conclusion, that these are only preliminary results based on a limited set of sources, and much more work would be required to explore and define this topic more precisely. It is probable that the list of episodes and case studies that can be analysed from this point of view could be expanded, especially if later sources were also included, something which would contribute to open new lines of research and reassess the analysis presented in this paper.

Notes

- 1 McLaughlin 1990, p. 193.
- 2 Klapisch-Züber 1994; Lett 2014.
- 3 Tanner, Gathagan and Huneycutt 2019a, p. 2.
- 4 Blythe 2001; Beaune 2019, pp. 167–169, 180.
- 5 Ferente 2012; Lett 2014, pp. 24, 161–177, Tanner, Gathagan, Huneycutt 2019b.
- 6 Beaune 2019, pp. 165–195.
- 7 As Blythe 2001, p. 245 reports, ‘in the Middle Ages, in absence of suitable male heir, a woman could become the lord of a fief and enjoy the rights and powers of that positions. In addition [. . .] a woman often ruled when her husband was absent or, in widowhood, on her own behalf or her son’s’. See also Lett 2014, pp. 75, 166–170. Lo Prete 2012 stresses the public aspects of the life of French noblewomen of the twelfth and thirteenth century.
- 8 McLaughlin 1990, pp. 198–199, Skinner 2000; Skinner 2001, ch. 5, Eads 2003; Eads 2005, Cosco 2011; Eads 2016; Galdi 2016.
- 9 Howell 1988, pp. 53–54.
- 10 Lett 2014, pp. 56, 95.
- 11 Howell 1988, p. 39.
- 12 Skinner 2001.
- 13 Kuehn 1998; 2001; 2017.
- 14 Kirshner 2004; 2014.

- 15 Kirshner 2017.
- 16 Lett 2014, pp. 259–260, and, on the early modern period, Wiesner 1993.
- 17 See at least Guzzetti 1998; Skinner 2001; Mainoni 2010; Rossi 2010; Bertoni 2011; Brolis and Zonca 2012; Zanoboni 2016; Brolis 2018, pp. 91–164, Gravela 2018; Guglielmotti 2020a and 2020b.
- 18 Luongo 2019.
- 19 Sjursen 2006, p. 830; cf. also McLaughlin 1990, p. 196.
- 20 I used the Latin edition by Garbini 1999. An English translation of the *Liber de Obsidione Ancone* is available in Stone 2002.
- 21 *Ibidem*, pp. 132–135, 146–155; Grillo 2014, pp. 175–178.
- 22 Garbini 1999, pp. 122–124.
- 23 *Ibidem*, p. 140.
- 24 *Ibidem*, pp. 140–142; Grillo 2014, pp. 171–175.
- 25 Hyde 1985; Garbini 1999, pp. 15–86; Artifoni 2002.
- 26 Grillo 2014, pp. 178–179.
- 27 Garbini 1999, pp. 27–28
- 28 Faini 2018, pp. 170–178.
- 29 Garbini 1999, pp. 27–28.
- 30 Raccagni 2013, pp. 583–585.
- 31 Johnston 2012, p. 455-
- 32 Balestracci 2017.
- 33 Lisini and Iacometti 1939, p. 59.
- 34 Lisini and Iacometti 1939, pp. 214–216.
- 35 Lisini and Iacometti 1939, pp. 214–215, n. 1.
- 36 Maire Vigueur 2003.
- 37 Grillo 2018.
- 38 De Robertis, Milani, Regnicoli and Zamponi 2016, pp. 89–93.
- 39 Fiore 2010, pp. 30–31.
- 40 Maire Vigueur 2018.
- 41 The scroll is in *Archivio del Comune*, b. 1.7, B 39, Sezione di Archivio di Stato di Assisi.
- 42 Fiore 2010, p. 30.
- 43 Maire Vigueur 2018, p. 268
- 44 McLaughlin 1990, p. 204.
- 45 McLaughlin 1990, pp. 196–197, Nicholson 1997, p. 349, Beaune 2019, pp. 176, 187.
- 46 Cardini 2004.
- 47 Canzian 2018, pp. 158–159. Another siege in which women played an active role was the one of Viterbo by Emperor Frederick II in 1243: Grillo 2017, pp. 422–423.
- 48 Grillo 2008, pp. 111–121, and, on a single classic case study, Waley 1968.
- 49 Lett 2014, p. 51.

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4 À l'épreuve des guerres seigneuriales. Des rôles féminins dans la trame de l'*Histoire de Corse* (quinzième siècle)

Lucie Arrighi

Les auteurs romantiques séduits par la Corse lui ont conféré l'image d'une terre violente où des femmes passionnées excellent dans l'assouvissement de leurs appétits vengeurs.¹ Cependant, ce *topos* littéraire de la *vendetta* féminine – incarnée par *Colomba* de Prosper Mérimée – découle de textes plus anciens qui remontent au Moyen Âge. En effet, les écrivains du dix-neuvième siècle, notamment la comtesse de Bradi,² se sont inspirés de l'historiographie médiévale corse pour faire de la violence insulaire un thème de prédilection. Ce faisant, ils ont posé un regard décontextualisé sur les guerres du Moyen Âge que le premier historien corse, le notaire Giovanni della Grossa (1388–1464), a mis en récit dans les années centrales du *Quattrocento*.

En 1457, après avoir servi sous les ordres des seigneurs corses pro-aragonais, des seigneurs génois, des gouverneurs de Corse envoyés par le Saint-Siège ou par les doges de la Commune de Gênes, celui qui a été notaire, lieutenant, commissaire et même vicaire est contraint à la retraite.³ Non sans rancœur vis-à-vis des autorités génoises qui viennent de le destituer, Giovanni della Grossa consacre son temps à l'écriture d'une *Histoire de Corse*.⁴ Il se dit alors 'fatigué [des affaires] du monde',⁵ à savoir de la Corse qu'il décrit péjorativement enclin à la 'nouveauté'.⁶ Il s'agit d'une île instable sombrant dans un incommensurable chaos politique dont il dénonce les causes et suggère les remèdes à travers son récit historique. À cette période, la Corse subit une double guerre. À l'échelle méditerranéenne, elle oppose la Commune de Gênes et la Couronne d'Aragon depuis la donation pontificale de 1297 qui a octroyé le 'Royaume de Sardaigne et de Corse' aux rois aragonais. Or, depuis le douzième siècle, la Corse était *de facto* tenue par les Génois au détriment des seigneurs corses issus de la plus illustre maison nobiliaire de l'île: la maison de Cinarca. Celle-ci est composée de cinq branches – Rocca, Istria, Litala, Ornano, et Leca – qui s'affrontent continuellement pour la dignité de comte de Corse. De fait, depuis les révoltes populaires de 1357–1358, cette guerre interne s'exerce à l'avantage du parti anti-seigneurial, soutenu par la Commune de Gênes, contre le parti pro-aragonais soutenu par la noblesse corse. Contre l'historiographie génoise, centrée sur le peuple, Giovanni della Grossa s'attelle à faire l'*Histoire* dynastique de la Corse. L'œuvre revient alors sur les fondements de ces luttes nobiliaires depuis les origines du 'royaume', dont l'appellation révèle l'attachement du notaire à la tradition politique insulaire qui faisait du comte de Corse le souverain de l'île. Le

récit s'étend jusqu'en 1464, en passant par l'an Mil. Cette date marque dans le récit la chute de la monarchie comtale cédant la place aux nombreux féodaux contre lesquels les Cinarchesi engagent, par la voie des armes, une longue tentative de restauration de l'ordre féodal incarné par la figure comtale. Aussi ces seigneurs fondaient-ils essentiellement leur légitimité d'accès au pouvoir sur la valeur guerrière dont étaient exclues les femmes, jugées faibles par nature. Néanmoins, bien que l'*Histoire de Corse* soit focalisée sur les guerres des seigneurs au détriment des femmes, cette 'violence symbolique'⁷ à leur égard ne les élude pas complètement de la trame: elles émergent à des moments-clés. Dès la genèse de cette *Histoire* se trouve Ginebra Torquati, veuve du comte de Corse Arrigo Colonna Bel Messere assassiné en l'an Mil. Celle-ci, à la tête d'une armée, fait occire les meurtriers de son époux et de ses enfants mâles. Cette vengeance, moins guidée par la passion que par la raison, érige la comtesse en ultime rempart du royaume, seule garante du pouvoir de sa lignée dont les Cinarchesi sont issus. L'auteur livre ainsi un premier modèle de la femme seigneuriale entre vices et vertus qu'il refaçonne au fil de l'*Histoire* en faveur de la maison et du modèle politique qu'il défend: une monarchie comtale héréditaire favorable à la famille *cinarchese* della Rocca contre l'élection comtale, alors en vigueur.⁸

À l'aune du contexte historique et littéraire du *Quattrocento*, notre travail interroge l'ambivalence des figures féminines en temps de guerre et la portée politique de leur représentation dans le discours seigneurial de l'historiographe. À travers l'image des femmes, il s'agit de montrer que, en dépit de la critique moderne qui a relégué le récit des origines au rang de 'fable', le notaire insulaire n'a jamais été coupé des courants intellectuels, ni des réalités de son temps.⁹ Pour ce faire, nous définirons, tout d'abord, le cadre de pensée dans lequel l'auteur situe ses femmes légendaires violentées et violentes. Nous verrons alors que le modèle de la femme seigneuriale qu'il tente d'esquisser est intrinsèquement lié à son contexte historique de guerre dans lequel des dames de la noblesse corse auraient un rôle à tenir.

Des femmes violentées et violentes dans les mythes de Giovanni della Grossa

Les femmes victimes de la violence

Giovanni della Grossa ne montre guère de compassion vis-à-vis de ses personnages victimes de la violence seigneuriale. Dès la présentation des origines féodales de l'île, les Corses sont jugés responsables de leurs malheurs en ce sens que la Providence les aurait condamnés pour leurs péchés politiques, à savoir le régicide d'Arrigo Bel Messere.¹⁰ Nul n'est épargné par la colère de Dieu, peu importe la catégorie sociale et le genre, car si les agissements des plus forts ont conduit à l'assassinat du souverain de Corse, la passivité des plus faibles qui se sont mis ensuite sous la protection d'un seigneur usurpateur empêche *ipso facto* la restauration du royaume de Corse. En effet, les plus vulnérables face aux tyrans, à savoir les victimes féminines imaginées par le notaire, sont souvent renvoyées devant la responsabilité des hommes de leur communauté villageoise, comme le

suggère la légende de la ‘mouche de Freto’. D’après ce récit, les jeunes filles de cette contrée sont victimes d’une pratique de cuissage¹¹ instaurée par le seigneur Orsolamano au treizième siècle. Celles-ci sont finalement vengées par Piombitto, le fiancé de l’une d’entre elles, qui assassine le tyran. Cependant, conformément à la mise en garde de Thomas d’Aquin à l’égard du tyrannicide,¹² l’acte occasionne la désolation dans toute la région laquelle, aux mains du peuple ‘furieux’, voit d’innombrables viols contre toutes les femmes proches de la maison du tyran:

A furore dil puopolo [. . .], di le femine fu facto grande stratio e vituperio, usando con loro ogni homo carnalmente e publicamente [. . .]. Io tengo per certissimo che Dio volse castigare li abominevoli peccati, omicidii e sforzi che in quella contrada facevano, e si dispopolò come si vede.

‘Suivant la fureur du peuple [. . .], les femmes furent maltraitées et humiliées, chaque homme abusant d’elles charnellement et publiquement. [. . .] Moi je reste entièrement persuadé que Dieu voulut punir les abominables péchés, homicides et violences qu’ils commettaient dans cette contrée, et [celle-ci] se dépeupla comme on le constate.’¹³

Le texte justifie alors les calamités qui s’abattent à nouveau sur Freto par la faiblesse des habitants allant d’usurpation en usurpation, de l’an Mil au treizième siècle; à la mort du comte Arrigo, les gens de Freto avaient fait montre de désinvolture en reconnaissant comme seigneur un simple officier nommé Orso dont le descendant Orsolamano est devenu un tyran d’usurpation et, partant, d’exercice.¹⁴ Or, le tyrannicide ne fait que substituer une tyrannie populaire à une tyrannie seigneuriale: après avoir opté pour un gouvernement communal, les femmes de Freto font couronner l’épouse de Piombitto qu’elles appellent ‘Madame’. De cette manière, Giovanni della Grossa tend à refuser à ces femmes populaires le statut de victimes et le droit d’être vengées. Plus que leurs responsabilités collectives, impliquant hommes et femmes, le notaire suggère directement leur culpabilité. Au treizième siècle, un autre seigneur usurpateur surnommé Rinieri Vecchio tente d’agresser sexuellement une jeune femme lorsqu’elle est soudainement secourue par un prêtre qui les surprend et tue le violeur. Cependant, feignant d’aller chercher de l’eau, la victime disparaît, comme si elle se savait coupable. En faisant la corrélation entre la légende de la ‘mouche de Freto’ et cet épisode, nous pouvons souligner la faiblesse féminine dans le discours du notaire. Incapable de défendre elle-même son honneur obligeant un homme à intervenir, la femme ment pour de pas avoir à répondre de sa culpabilité, celle de s’être laissé faire et d’avoir probablement suscité le désir sexuel. C’est du moins ce que pourrait suggérer la formulation du passage:

Volendo usare con una donna amica d’un prete contra sua volontà, li andò a trovare, e stando la donna sopra al letto, [il prete] diede un paro di calci a Rinieri, il quale cadé a dietro del letto e morse subito. E la donna, mostrando che andava a pigliare acqua, se ne fuggì.

‘Voulant abuser d’une femme amie d’un prêtre contre sa volonté, il les visita, mais, trouvant la femme sur le lit, [le prêtre]¹⁵ donna deux coups de

pied à Rinieri, lequel tomba derrière le lit et décéda aussitôt. Puis la femme, feignant d'aller chercher de l'eau, s'enfuit'.¹⁶

En fait, le notaire, à l'instar de ses contemporains, conçoit la lubricité naturelle des femmes qui inciterait les seigneurs à abuser charnellement d'elles.¹⁷ Le comportement de Sibilìa la châtelaine d'Istria, veuve du Génois Barbo di Franchi dont le père avait usurpé la seigneurie lors de la conquête génoise au début du treizième siècle, est à ce sujet révélateur du regard que porte le notaire sur les belles femmes, de surcroît veuves.¹⁸ Depuis Aristote, mais surtout en cette fin de Moyen Âge, en passant par l'archevêque de Gênes Jacques de Voragine (1228–1298), la méfiance est de mise envers les belles veuves auxquelles l'Église reproche leur expérience sexuelle et, partant, une tendance à mieux tromper l'homme.¹⁹ En effet, à la fin du treizième siècle, lorsque Sinuncello della Rocca, surnommé Giudice Maggiore di Cinarca, entreprend de reconquérir les terres de son père assassiné et de placer toute la Corse sous son autorité, Sibilìa feint de lui offrir sa main; elle le capture et se présente chaque nuit à moitié dénudée devant sa cellule, jusqu'à son évasion. Afin de punir la perfidie de Sibilìa qui a osé s'opposer au descendant *cinarchese* du comte Arrigo, nommé par les Pisans et bientôt élu par les populations, Giudice – dont le nom signifie juge – la livre aux appétits sexuels de ses soldats: 'e quando [Giudice] hebbe facto questa iustitia, mandò che se ne tornasse al suo paese' ('et quand il eut rendu cette justice, il ordonna qu'elle rentrât dans son pays').²⁰ Le texte n'utilise pas du terme de vengeance, mais il évoque pour la première fois dans le récit un acte de 'justice' qui se répète tout au long du gouvernement de ce prince marsilien que veut construire Giovanni della Grossa.²¹ La violence seigneuriale subie par la châtelaine d'Istria est alors légitime.

Ainsi, lubriques et perfides, les femmes de l'*Histoire de Corse* ne sont guère d'innocentes victimes aux yeux de l'auteur. Au contraire, loin d'être toujours passives lors des conflits seigneuriaux, certaines y prennent part selon leur capacité d'action.

Des femmes passives en action?

Si Bernardin de Sienne (1380–1444) croit en la virilité de certaines femmes, en particulier des veuves, Giovanni della Grossa leur refuse un tel terme, même aux plus vertueuses. Il leur manque une caractéristique essentielle que le notaire attribue exclusivement aux seigneurs dès les origines de la fondation dynastique du royaume: la capacité guerrière à travers la force physique. La relation intrinsèque entre l'activité militaire et les hommes de l'*Histoire* est fondée sur l'âeul du Bel Messere, à savoir le comte Boniface qui a expulsé les 'Maures' de Corse. De manière allégorique, ce dernier assoit sa légitimité, et celle de ses successeurs, en sectionnant lors d'un combat les bras d'un ours, symbole par excellence de la virilité et du pouvoir de la force dans la littérature médiévale.²² Sur ce point, Giovanni della Grossa rejoint Gilles de Rome (1247–1316) selon lequel la participation au combat armé des femmes, dont les bras sont mous, est contre nature. En effet, le récit historique médiéval corse fait abstraction des femmes sur le

champ de bataille, à l'exception d'une qui confirme la règle en 1408. Il s'agit de la fille du comte *cinarchese* Arrigo della Rocca (†1401), nommée Violante, qui empoigne les armes contre les assassins de son frère devenu pro-génois. Or, la fugacité de son apparition décrédibilise une telle audace dont le récit n'est pas sans une certaine ironie: l'ampleur de ses efforts militaires déployés contre les seigneurs corses détonne avec sa cuisante défaite qui la met aussitôt en fuite.²³ Du fait de cette faiblesse physique, nombreuses sont celles parmi les femmes de l'*Histoire* qui répondent à la violence en usant avec ruse d'intermédiaires masculins. Afin de se défendre et se venger, certaines n'hésitent pas à concevoir des stratagèmes, comme l'illustre l'épisode sur la guerre entre le clan d'Orlando di Costa et celui de Giovanni Bagnaia au treizième siècle.²⁴ À la mort des deux hommes tués lors du conflit, le mariage de la fille Bagnaia avec le fils d'Orlando di Costa, nommé Dastuceno, aurait pu sceller la paix entre les deux factions de seigneurs usurpateurs que doit combattre Giudice di Cinarca. Cependant, la jeune épouse envisage de venger la mort de son père assassiné par le tyrannique Giovanninello di Loreta. Or, ce dernier est le frère et successeur d'Orlando di Costa ainsi que l'oncle de Dastuceno. La vengeance de la jeune femme consiste alors à faire s'entretuer les membres de sa belle-famille; elle manipule Dastuceno en inventant que Giovanninello aurait tenté d'abuser charnellement d'elle: le jeune époux est éliminé par son oncle contre lequel Giudice peut désormais mieux concentrer ses forces.

Ainsi, l'*Histoire de Corse* révèle que les femmes ne sont pas dépourvues d'agentivité. Néanmoins, elles n'agissent que de manière détournée, en rusant. Bien que dans un groupe masculin la ruse ait pu être considérée comme inférieure aux exploits guerriers,²⁵ ce procédé d'action au quinzième siècle dénote l'entendement dans l'action féminine.

Des femmes d'action vertueuses

La pensée de Giovanni della Grossa sur le caractère féminin dévie de l'opinion de Saint Paul (1 Corinthiens 14:34),²⁶ voire de certains juristes italiens comme Balde de Ubaldis (1327–1400), chaque fois que le notaire daigne bien concéder un rôle politique à certaines femmes. En effet, le juriste Giovanni d'Andrea (1275–1348) reconnaît aux femmes le droit de juger, d'hériter et de gouverner selon la coutume, et Balde lui-même admet qu'elles peuvent accéder au fief.²⁷ Cependant, comme le résume Colette Beaune,²⁸ il s'agit toujours de femmes nobles dont le pouvoir s'exerce souvent au nom de l'époux ou du fils; et l'*Histoire de Corse* ne déroge pas à ce principe. En effet, dans la partie légendaire du récit historique, les trois femmes de pouvoir qui sont mentionnées sont des veuves de seigneurs: Ginebra, Finidora – la mère de Giudice – et Sibilìa doivent assumer, à la place de l'époux, la régence et la défense de la seigneurie. Or, de telles fonctions exigent des femmes seigneuriales des compétences que seule la maîtrise de leurs passions permettrait de réaliser. Ainsi, malgré la lubricité de Sibilìa qui sait jouer de ses charmes, elle n'est pas allée au bout du vice: elle refuse de se donner charnellement à Giudice di Cinarca, pourtant décrit comme un homme irrésistible

à la sexualité de surcroît débridée. En effet, une métaphore filée comparant les seigneurs à des bêtes affamées décrit le rapport entre les hommes et les femmes:

[Giudice] era per contra molto dato al vizio di le donne come suoleno la magior parte de li signori che como signori obteno facilmente le donne e quel che buoleno per cavarsi loro apetiti. E Iudicie atendea quando havea fama di una bella donna si la poteva havere senza forza e che non fusse maritata.

‘[Giudice] était au contraire très adonné au vice des femmes, selon la coutume de la majeure partie des seigneurs qui en leur qualité obtiennent facilement les femmes et ce qu’ils désirent pour rassasier leurs appétits. Néanmoins, lorsque Giudice avait faim d’une belle femme, il regardait s’il pouvait l’obtenir sans faire usage de la force et si elle n’était pas mariée’.²⁹

Dans le texte, les femmes apparaissent autant lubriques que les seigneurs sont libidineux, et force est de constater que la châtelaine sait contenir ses pulsions pour profiter de la faiblesse masculine et tenter de conserver la forteresse. De même, Ginebra Torquati ne se laisse pas dominer par la colère, en dépit de la terrible *vendetta* qu’elle dirige contre les assassins de son époux et de ses sept garçons. Au contraire, la comtesse montre une grande maîtrise de ses émotions au vu des malheurs qui viennent de la frapper. La veuve parvient à réfréner ses larmes pour mener à bien les représailles contre les seigneurs dissidents:

[Ginebra Torquati] di grande virtù e valore [. . .]. E alla fine tornò in se considerando non avere il caso successo di morte rimedio alcuno. E così, come donna savia e prudente di molto governo, fece tre giorni grande lutto e piento e lamento. E facto questo, subito tenne consiglio [. . .]. Ognuno dovesse muovere a far la vendetta di tanta crudeltà e tradimento.

‘[Ginebra Torquati] de grande vertu et valeur [. . .]. Et finalement elle revint à elle en considérant qu’il n’y avait aucun remède à l’événement mortel survenu. Et ainsi, en qualité de femme de haut gouvernement, sage et prudente, elle fit trois jours de grand deuil, de cris et de lamentations. Cela accompli, elle tint aussitôt conseil [. . .]. Chacun devait se mobiliser pour entreprendre la *vendetta* de tant de cruauté et de trahison’.³⁰

Des vertus cardinales viennent alors équilibrer le portrait de ces femmes en guerre. En dépit de son caractère lubrique et perfide, la châtelaine Sibilia n’en demeure pas moins ‘sage’ en matière de gouvernement selon le propre terme employé par Giovanni della Grossa: ‘E lei era arrestata bedova e tenea il castello di Istria, e governava la pieve di Valle [. . .], et era tenuta per savia’ (‘et elle demeurait veuve, elle tenait le château d’Istria, et gouvernait la *pieve* de Valle [. . .], et elle était tenue pour sage’).³¹

C’est que la sagesse est perçue dans le texte comme la vertu gouvernementale par excellence; elle permet aux veuves seigneuriales de diriger leurs soldats et vassaux et, partant, de déléguer l’action militaire aux hommes sur le champ de bataille, comme le recommande Honoré Bonet dont les écrits sont largement diffusés au quinzième siècle.³² En effet, à travers des formules pléonastiques,

Ginebra Torquati est présentée comme une femme de gouvernement extrêmement sage et valeureuse. De ce fait, elle parvient à tenir un conseil de guerre afin d'organiser la *vendetta* pour laquelle elle enrôle la belle-famille de sa fille, les comtes Forte et Antonio di Cinarca. À la force et à la prudence de Ginebra s'ajoute encore la tempérance au cours de la guerre. Il s'agit à travers cette vertu d'éviter que ne soit esquissé le portrait d'un monstre à la colère insatiable,³³ car l'auteur préfère celui d'une veuve seigneuriale en tout point vertueuse dont la violence est guidée par la justice. En effet, alors qu'elle vient d'ordonner l'exécution sur le bûcher des traîtres – avec hommes, femmes, et enfants –, Ginebra choisit d'épargner l'un des assassins qu'elle condamne à vivre sans ses privilèges, sans titres ni terres. Ainsi, la violence de la comtesse auréolée de toutes les vertus cardinales fait de la *vendetta* une entreprise militaire et politique parfaitement légitime sous ce contrôle féminin.

En somme, dans un tel climat de violence, Giovanni della Grossa préfère la femme d'action à la femme victime dans la mesure où la femme en guerre se montre capable de combattre la nature faible, voire vicieuse, que lui conférerait son sexe. Or, seules les dames nobles parviennent à défendre la seigneurie, en transcendant parfois le genre de leurs vertus, sans pour autant être qualifiées de viriles par l'auteur. De cette capacité émane alors un enjeu dans les guerres insulaires des seigneurs qui perdurent au quinzième siècle: le notaire attribue à certaines femmes de la noblesse corse une mission politique auprès de leurs hommes.

Des femmes mythiques et réelles au service de la Seigneurie de Corse

L'épouse seigneuriale

Le contexte dans lequel écrit Giovanni della Grossa est celui d'une guerre ancestrale et parricide entre les seigneurs de la maison de Cinarca qui briguent la seigneurie de Corse. Aussi le notaire souligne-t-il cette désunion familiale au sein des clans seigneuriaux, notamment dans la famille du comte Polo della Rocca (†1465) qui doit affronter ses frères cadets, Antone (†1460) et Orlando (†ca. 1447), forts du soutien de leurs femmes issues de la famille d'Istria. *A contrario*, s'étant marié à trois reprises, Polo della Rocca ne bénéficie d'aucun appui féminin pour fédérer ses enfants à sa cause: sa troisième épouse et son fils, lequel n'est pas issu de ce mariage, le trahissent. Or, la partie sur les origines, à travers Arrigo Bel Messere et Ginebra Torquati, nous montre combien la force d'un lignage seigneurial repose sur l'épouse, notamment sur sa capacité à se substituer au mari sage et belliqueux en cas de crise militaire et politique. Pour rappel, la comtesse s'impose en chef de guerre qui gouverne et défend la seigneurie du comte défunt. Afin de rendre le mythe plus opérant, Giovanni della Grossa conforte ce modèle mythique du couple 'royal' au moyen d'exemples contemporains sur la branche *cinarchese* d'Istria. En effet, Giovanni della Grossa connaît bien cette famille rivale du comte Polo puisque le notaire a déjà servi le comte de Corse Vincentello d'Istria (1407–1434) avant de le trahir. Giovanni della Grossa choisit alors d'évoquer

deux épouses: Imperatrice, mariée à Giovanni d'Istria (†1436), et Ginebra d'Istria, mariée à Orlando della Rocca. La description du premier cas souligne le tandem formé par le couple qui peut mener deux guerres simultanées. Giovanni, animé par la force, sert les intérêts militaires du roi d'Aragon en Méditerranée, tandis que son épouse, animée par la sagesse, gouverne le fief contre les appétits des autres seigneurs corses, en l'absence de son époux:

Valentissimo di sua persona in tutti facti di arme e savio [. . .], [Giovanni d'Istria] facieva molto rispettare la casa di Istria in suo tempo, e la mogle che si chiamava Imperatrice, como donna per governo, governava la sua parte di signoria, in tempo che la hebbe.

'Très vaillant de sa personne dans tous les faits d'armes et sage [. . .], [Giovanni d'Istria] faisait de son temps beaucoup respecter la maison d'Istria, et sa femme, qui s'appelait Imperatrice, en qualité de femme de gouvernement, gouvernait sa partie de seigneurie du temps où elle la tenait'.³⁴

Si la syntaxe et la sémantique révèlent la complémentarité du couple seigneurial, elles révèlent aussi la subordination de la femme au mari: '[Ginebra d'Istria] donna di molto valore che bene havea conservato la signoria di suo marito e [i] beni che tenea fino a che Iudicie da Istria fu conte' ('[. . .] une femme de grande valeur qui avait bien conservé la seigneurie de son mari et les biens qu'il possédait, jusqu'à ce que Giudice d'Istria devint conte').³⁵ En effet, les adjectifs possessifs, les compléments du nom et les compléments circonstanciels de temps montrent bien qu'Imperatrice et Ginebra d'Istria gouvernent momentanément une seigneurie qui ne leur appartient pas: le fief reste celui du mari, du fils, voire du chef de clan.

Ainsi, à l'instar de son homonyme du onzième siècle violemment exclue du gouvernement par les barons, le veuvage de Ginebra d'Istria ne lui permet pas de gouverner *ad vitam* la seigneurie, mais de la conserver pour les héritiers mâles. Ce faisant, les veuves de l'*Histoire de Corse* donnent à voir des mères seigneuriales.

La mère seigneuriale

Quand un chapitre s'achève, Giovanni della Grossa fait une synthèse sur les morts et les survivants de la guerre dans chaque famille seigneuriale. Il signale de surcroît lorsqu'une branche vient de s'éteindre.³⁶ En se présentant comme une histoire des lignées insulaires, l'*Histoire de Corse* porte un intérêt à la progéniture seigneuriale et *a fortiori* aux mères qui l'engendrent. En effet, le sort des enfants seigneuriaux apparaît comme un élément déterminant dans la quête d'hégémonie qui oppose les seigneurs corses: leur stratégie consiste à occire les jeunes seigneurs afin d'anéantir définitivement une famille rivale. Dès le début de l'œuvre, cette pratique, qui touche violemment les mères jusqu'au quinzième siècle, est illustrée par l'assassinat des sept garçons d'Arrigo Bel Messere et Ginebra en l'an Mil. Cet usage de la violence qui se veut constant dans le texte aboutit à des infanticides, comme le montre l'épisode consacré à la guerre de Giudice di Cinarca contre Giovanninello di Loreta. Malgré l'assassinat de ce dernier, la

violence persiste en s'orientant contre les femmes de l'entourage de ses fils, à savoir une maîtresse qui est alors enceinte. Séquestrée, elle met au monde l'un des derniers descendants de Giovanninello, mais le nourrisson est aussitôt tué par ses geôliers dans le but d'éliminer la lignée de ce seigneur tyrannique.³⁷ Par opposition à cette mère de basse extraction, incapable de défendre sa progéniture, les femmes nobles de la grande maison de Cinarca doivent quant à elles se faire les protectrices de leurs enfants et, partant, celles de la seigneurie familiale. Or, Ginebra Torquati remplit cette fonction à la perfection, si bien qu'elle s'impose comme le modèle de la mère seigneuriale qui justifie la violence féminine. En effet, à la fin du récit sur la *vendetta* dirigée par la comtesse, le texte montre bien que sa vengeance n'est pas une finalité. Après avoir tenu un conseil de guerre, Ginebra tient un conseil politique. Toute la dernière partie de la légende traite alors des négociations menées par la comtesse pour que le pouvoir politique reste dans la famille. Pour parvenir à ses fins, elle fait son testament incluant les biens de son époux en faveur de son gendre et de sa fille, le comte et la comtesse de Cinarca. Ainsi, les vertus de la force et de la sagesse qui font de Ginebra une femme de guerre et de gouvernement constituent les éléments clés du portrait des mères seigneuriales que Giovanni della Grossa esquisse de ses personnages contemporains. En effet, l'intervention de Ginebra d'Istria dans la guerre que mène son fils Lodovico della Rocca (†1501) contre son oncle paternel, le comte Polo della Rocca, semble évidente dans le texte. Outre l'atout militaire qu'elle représente en tant que gardienne du château familial, le récit suggère, à travers les liens de parenté, que Ginebra d'Istria serait en cause dans l'alliance que forme son fils Lodovico et son frère Vincentello II d'Istria contre Polo della Rocca. Les liens familiaux maternels profitent alors à un fils qui doit s'imposer politiquement par les armes face à sa famille paternelle.³⁸ Ces femmes nobles, courageuses et sages de surcroît selon les termes du texte, passent ainsi pour de véritables instigatrices de la guerre seigneuriale au service de leurs fils.

Néanmoins, leur intervention peut aussi desservir le parti seigneurial des Cinarchesi. Bien que stratégique dans l'alliance avec son oncle cognatique contre son oncle agnatique, Lodovico della Rocca passe dans le camp pro-génois et anti-seigneurial que soutient Vincentello II d'Istria: Giovanni della Grossa souligne cette incohérence profitable aux Génois en faisant de Lodovico le tyran du comte Polo qui empêche irrémédiablement la restauration du comté de Corse.³⁹ La tradition comtale des Cinarchesi est effectivement rompue au profit de Tommasino Campofregoso, d'origine génoise et cap corsine, qui est élu comte en 1464 grâce aux manigances de sa grand-mère Catarina Ordelaaffi. Ainsi, la femme noble, capable de faire et défaire les seigneurs, est présentée comme une arme à double tranchant qu'il convient de savoir manier.

L'amie ou l'ennemie du seigneur?

À la différence du couple exemplaire formé par le comte Arrigo Bel Messere et Ginebra Torquati, la plupart des seigneurs corses ne connaissent pas une telle harmonie conjugale, notamment le comte Polo della Rocca. Si Ginebra Torquati est entièrement dévouée à la lignée de son époux, la troisième femme de Polo

della Rocca, Donessa di Leca, sème la zizanie dans la famille au point que le comte ne parvient pas à s'imposer au sein du foyer, de la famille della Rocca, des Cinarchesi et, partant, de la Corse:

Polo fu valente di sua persona e soldato homo savio di governo, però non li seppe governare in pacie con suoi fratelli, ne meno con li figlioli perché primo odiava ad [Giudice], suo secondo figliolo, e lui favoriva più a [Arrigo].

'En tant que soldat, Polo fut vaillant de sa personne et, en tant que gouvernant, un homme sage. Cependant, il ne sut point gouverner en paix avec ses frères, ni avec ses fils, car, premièrement, il haïssait Giudice, son fils cadet, et favorisait davantage Arrigo'.⁴⁰

C'est là le seul reproche exprimé par Giovanni della Grossa à l'égard du comte: ne pas être venu à bout de la discorde familiale dont la femme, issue des Leca, est à l'origine. En effet, Giovanni della Grossa accorde du crédit à une rumeur selon laquelle Donessa aurait entretenu une relation incestueuse avec son beau-fils et cousin germain, Giudice della Rocca (†1457), conduisant le père et le fils à une haine meurtrière au profit des Génois. Or, certaines légendes racontées par le notaire laissent transparaître l'idée que certaines femmes, lubriques et perfides, sont capables d'influer intentionnellement sur le cours de l'*Histoire* en faveur de leur famille d'origine. D'ailleurs, à travers une proposition causale introduite par 'per', Giovanni della Grossa met directement en cause la parenté des deux amants, certainement par les Leca: 'per quella parentella [...] parlavano e conversavano molto li dui insieme' ('en raison de cette parenté [...] les deux parlèrent et conversèrent ensemble').⁴¹

Au vu des liens que les épouses maintiennent avec ceux de leur sang, certaines sont semblables à un cheval de Troie introduit dans une famille rivale. Aussi Giovanni della Grossa remet-il en question certaines unions matrimoniales en tant que stratégie d'alliance entre les familles seigneuriales. Pour ce faire, l'ancien fonctionnaire de justice assimile les cas d'adultère féminin à des actes criminels. En effet, les coupables sont punis de mort ou de bannissement, comme s'il s'agissait d'un crime de haute-trahison bouleversant l'ordre politique plus que l'ordre familial.⁴² Au quatorzième siècle, il est fait mention de la fille de Goglermo della Rocca mariée à Basseto d'Ornano. Lorsque ce dernier porte plainte auprès du gouverneur génois pour adultère contre son épouse et son frère Orlando d'Ornano, l'amant est exécuté par décapitation. En 1437, alors que Giovanni della Grossa se trouve dans le Cap Corse au service des seigneurs génois da Mare, le notaire rapporte le mariage désastreux du seigneur voisin de la région: celui de Vincentello Abogari di Brando avec Spesetta di Leca. Ayant appris la liaison de sa femme avec son frère Francesco di Brando, le seigneur tue lui-même son épouse et expulse l'amant.⁴³ En 1454, Raffè di Leca (†1456) ordonne également la mort de Bianchina da Mare. Néanmoins, si la loi divine, selon le théologien Jean de Gerson, conçoit la peine de mort pour adultère,⁴⁴ Giovanni della Grossa ne valide pas une telle condamnation de ces épouses infidèles par les seigneurs touchés dans leur honneur. En effet, le notaire souligne les conséquences que peuvent parfois produire la violence envers les femmes de l'aristocratie. À la suite du meurtre

de Spesetta di Leca, la seigneurie sombre dans la discorde entre les deux frères jusqu'à sa ruine. À la suite de l'exécution de Bianchina da Mare, les autorités génoises se méfient de Raffè di Leca. En outre, les termes du récit précisent les circonstances de la mort ainsi que la véritable motivation du seigneur: 'per gelosia, mandò dui suo fratelli carnali bastardi [. . .] che la amazsero, e la amazorno a Cinarca a lanciate e a pugnalate pubblicamente' ('par jalousie, il envoya ses deux frères bâtards [. . .] pour qu'ils la massacrent, et ils la massacrèrent à Cinarca, à coups de lance et de couteau publiquement'.⁴⁵

Le carnage de cette mort, imputé à la jalousie du seigneur, contraint Raffè à rendre des comptes à la noblesse, mais, 'per scusa' envers sa belle-famille, il commet un autre homicide, celui de l'amant. De cette manière, Raffè di Leca est présenté comme un seigneur vicieux dont la conception de la justice est démesurée: il s'avère incapable de contenir sa colère et sa violence, contrairement à son rival Polo della Rocca, le descendant direct du Juge de Cinarca. En effet, après que Donessa di Leca a remis le château à son amant, elle finit bannie de la seigneurie de la Rocca et est renvoyée chez elle dans la seigneurie de Leca, sans que Polo n'en fasse grand cas à sa sortie de prison. Giovanni della Grossa dénonce ainsi l'excès de zèle de certains seigneurs qui châtient à leur guise sous le coup de la passion, en l'absence de lois civiles effectives sur les seigneurs corses.⁴⁶

La première *Histoire de Corse* se lit à travers le prisme du quinzième siècle livré par Giovanni della Grossa dans la dernière partie de l'œuvre. C'est l'*Histoire* d'une île cernée de toute part par la violence d'un contexte politique et militaire au cours duquel s'opposent les féodaux depuis des temps immémoriaux. Le notaire retrace alors l'histoire de ce chaos à partir d'une malédiction divine lancée contre les Corses dès lors tyrannisés à la suite d'un péché politique qu'ils auraient commis: c'est que le régicide du comte de Corse a ouvert la porte aux tyrans. Face à la violence de ces seigneurs tyranniques se trouvent en première ligne les femmes. Pourtant, à travers son texte, Giovanni della Grossa ne se montre guère compatissant vis-à-vis d'elles. Celles-ci ne sont pas d'innocentes victimes, mais la conséquence pure et simple de la tyrannie dont les Corses sont responsables. Cependant, le notaire ne croit pas à la fatalité de cette malédiction, pas plus au déterminisme qui subordonne la volonté des Corses à la Providence. Une voie de rédemption reste ouverte avec la restauration d'un comte de Corse, mais celui-ci ne parvient pas à s'imposer à cause des rivalités internes. C'est ici que Giovanni della Grossa ouvre une brèche à une certaine catégorie de femmes dans la mesure où elles maîtrisent leurs passions et restent subordonnées aux hommes. Son modèle est celui de la femme noble, épouse et mère à la fois, qui s'éveille au moment du veuvage pour défendre la seigneurie. Selon les schémas de pensée de son époque qu'il remanie, le notaire lui reconnaît momentanément une capacité d'action en temps de guerre en faisant la synthèse de ses vices et vertus. S'il n'est guère convenable pour une femme de porter les armes, sa perfidie et sa sagesse lui permettent d'agir de manière indirecte, mais tout autant violente, sur le cours de la guerre, par le truchement des vassaux qu'elle parvient à gouverner, des alliances qu'elle parvient à nouer, voire des stratagèmes qu'elle parvient à manigancer. Elle représente ainsi une arme indispensable pour les seigneurs, mais une arme à

double tranchant du fait de son ambivalence. Aussi suscite-t-elle la méfiance et la violence des hommes à son égard. Ce n'est alors plus à la femme de maîtriser ses passions et faire preuve de résilience, mais au seigneur de montrer ses vertus et sa résistance, car elle reste, depuis les origines, la garante de la Seigneurie de Corse.

Notes

- 1 'Cette fatalité, qui pèse sur des amours rendues impossibles dans une situation de vengeance, naît de l'histoire, des mœurs, du caractère des hommes. Ces drames sont doublement sanglants car ils se situent dans le cadre d'une guerre [. . .]. Ce schéma aux fils tendus, trop tendus, débouche sur des effets violents, mélodramatiques. L'image de la Corse est emprisonnée dans ce réseau complexe et sanglant, qui se produit d'une œuvre à l'autre' (Jeoffroy-Faggianelli 1979).
- 2 Caylac de Ceylan Bradi 1825a, 1825b, 2005.
- 3 Lettre de Giovanni della Grossa dans laquelle il se plaint de sa destitution (Archivio di Stato di Genova).
- 4 Dans le cadre du projet PO FEDER 'les espaces de la Corse médiévale', nous préparons à l'université de Corse une édition numérique de ce récit historique à partir d'un manuscrit privé récemment découvert chez le libraire Jacques Benelli [Ms. Benelli]. La dernière édition date de 2016 (Graziani 2016).
- 5 ms. Benelli, p. 643.
- 6 ms. Benelli, p. 679.
- 7 Chartier 1993, p. 39 et Godelier 1993, p. 104.
- 8 À l'opposé de l'interprétation de Lucien Letteron en 1888 qui voyait en Giovanni della Grossa un partisan républicain de Gênes, nos travaux de doctorat, en cours de publication chez Classiques Garnier, démontrent les idées pro-seigneuriales, voire monarchiques de l'auteur.
- 9 L'historien Filippini (1594, p. 40) reproche au texte de Giovanni della Grossa l'absence d'autorités textuelles.
- 10 Ms. Benelli, p. 125.
- 11 Dans les années 1990, Alain Boureau et Marie-Victoire Louis se sont intéressés à l'expression 'droit de cuissage'. Marie-Victoire Louis a voulu révéler la réalité de cette pratique faisant du terme 'droit' dans le syntagme 'droit de cuissage' une métaphore. Alain Boureau a quant à lui montré la fabrication du mythe en ce sens qu'aucun droit ne légitimait au Moyen Âge une telle pratique seigneuriale (Fraisie 1996). Nous préférons utiliser le terme de pratique, car l'*Histoire de Corse* évoque cet acte pour dénoncer l'illégitimité du seigneur.
- 12 Carron 2017, p. 133
- 13 Ms. Benelli, pp. 181–187.
- 14 'On préfère penser qu'un prince illégitime est toujours un tyran d'exercice, et réciproquement. C'est ainsi que les deux accusations se mêlent pour dénoncer les ennemis politiques comme usurpateurs tyranniques' (Boucheron 2002, p. 1414).
- 15 Nous attribuons l'action au prêtre, conformément à la traduction d'Antoine-Marie Graziani (2016, p. 263) et au manuscrit de la BnF (1754, p. 323).
- 16 Ms. Benelli, p. 213.
- 17 La lubricité des femmes est reconnue dans les statuts communaux italiens de la fin du Moyen Âge (Lett 2013, p. 43).
- 18 'Lei era arrestata bedova [. . .], era una bella donna, grande di persona e bianca e bella' ('Elle demeurait veuve [. . .], elle était une belle femme, grande de stature, belle et blanche [de peau]', Ms. Benelli, pp. 221–223).
- 19 Lett 2013, pp. 45–46 et Vecchio 1990, pp. 158–159.
- 20 Ms. Benelli, p. 223.

- 21 Sur la figure du prince juge au pouvoir de juridiction coercitif chez Marsile de Padoue, voir Quillet 1970, p. 111–114.
- 22 Vigarello 2011, pp. 145–150.
- 23 Ms. Benelli, p. 369.
- 24 Ms. Benelli, p. 211.
- 25 Vigarello 2011, p. 151; Holeindre 2017.
- 26 ‘Que les femmes parmi vous se taisent dans les églises’ (Sellier 1990, p. 1492).
- 27 Andrea 1581, fol. 309; Guerra Medici 2012, pp. 615–634; Lett 2013, p. 138.
- 28 Beaune 2012, pp. 635–642.
- 29 Ms. Benelli, p. 245.
- 30 Ms. Benelli, pp. 119–121.
- 31 Ms. Benelli, p. 221.
- 32 Millet and Hanly 1996, p. 135; Lett 2013, p. 140; Biu 2019, pp. 93–110; Richter-Bergmeier 2017.
- 33 L’âme meurtrie de la comtesse est comparée à un estomac affamé : *Per satiare il animo di la contessa* (‘pour rassasier l’âme de la comtesse’, Ms. Benelli, p. 121).
- 34 Ms. Benelli, p. 468.
- 35 Ms. Benelli, p. 649.
- 36 Ms. Benelli, p. 138, pp. 486–488.
- 37 Ms. Benelli, p. 253.
- 38 La documentation génoise entre la fin du quinzième et le début du seizième siècle, lors du second gouvernement de l’Office de Saint-Georges (1483), révèle que certaines femmes seigneuriales corses continuèrent à maintenir des liens avec leur famille d’origine (Marchi Van Cauwelaert 2011, p. 444). Au vu du témoignage de Giovanni della Grossa, les relations consanguines des femmes de seigneur constituèrent certainement une pratique antérieure aux années 1480, commune aux autres territoires latins, comme la Castille (Marin 2020).
- 39 Ms. Benelli, p. 671.
- 40 Ms. Benelli, p. 555.
- 41 Ms. Benelli, p. 573.
- 42 L’adultère est généralement classé parmi les actes de petite trahison: Billoré and Soria 2009, p. 15–34.
- 43 Ms. Benelli, p. 482.
- 44 Gauvard 2018, p. 110.
- 45 Ms. Benelli, p. 591.
- 46 L’Office de Saint-Georges s’imposa progressivement en Corse par le biais d’une répression politique et militaire, mais aussi par le biais d’une administration puissante qui rendait la justice. D’après la documentation, qui apparaît en Corse dans les années 1490 (Archives départementales de Corse-du-Sud), ce gouvernement fut de plus en plus impliqué dans la vie des Corses afin de mieux contenir la violence insulaire, notamment à l’égard des femmes. Ainsi, les violences et meurtres conjugaux ainsi que les viols furent punis de bannissement et d’une amende en 1499. C’est ce qu’illustrent les cas de Paulo d’Olmata, accusé d’avoir tué son épouse en la battant, du cavalier du lieutenant de Balagne, accusé de viol, et de Bastiano de Lota, qui invoque l’adultère de son épouse pour justifier les coups portés à sa femme.

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Part II

Women and criminal courts



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5 Opportunities to charge rape in thirteenth-century Bologna

Carol Lansing

Scholars of the late medieval Italian towns have often understood women's circumstances in terms of the strategies and practices of their male kin, assuming that women led restricted lives within an agnatic system. From the mid-twelfth century families in the north-central Italian towns adopted a form of Roman dowry, in which a daughter received a dowry from her natal family which became the chief marital assign. Contributions to the wife from the husband's family shrank and in many towns were limited by law to a modest sum. A dowry was not an inheritance, but the *exclusio propter dotem*, exclusion from patrimonial inheritance because of receipt of the dowry, was common. This facilitated the ability of agnatic lineages to maintain control of significant resources across generations, especially real property. Statutory law was clear that the dowry belonged to the wife, but the husband controlled it.¹ Married women had legal and social protections, including the dowry itself, the right to *alimenta* or support, and the *tornata*, the right upon widowhood to return to their natal family. These protections in practice depended on the actions of their kin. Families down the social scale adopted the use of dowries, to the point that the best way to prove the existence of a legal marriage was to show a dowry contract. Dowries together with female sexual reputation became intertwined with family honor.

One story that defined the dotal regime was the popular 'Life of Saint Nicholas of Myra'. In the version in the thirteenth-century *Legenda Aurea*, saintly young Nicholas had a neighbor who was *satis nobilis*, noble enough, but because he was poor planned to prostitute his three virgin daughters so he could be supported by their infamous commerce. Nicholas, who was trying to work out what to do with the wealth he had just inherited from his parents, was horrified, and secretly tossed bags of gold through the daughters' window, enabling them to marry.² Women lived within the protection of the dowry system, and if their male kin failed them, their best hope was a miracle.

At times, understanding female experience in terms of the protections and restrictions of the dotal regime can be misleading. One way to think about this is in terms of what François-Xavier Fauvelle called the chalk line effect. Fauvelle, an archaeologist of West Africa, used the analogy of a chalk line indicating where a corpse had lain in a crime scene after the actual body had been removed to discuss assumptions: a chalk line enables a detective to investigate a crime

when the evidence in fact is gone, but in truth might be misleading. Fauvelle used the analogy to suggest that archaeologists sometimes fit their actual findings into hypotheses derived from studies by historians, often based them on contemporary texts, rather than follow the archaeological evidence.³

It can be useful to think outside the chalk line about women and violence in thirteenth-century Italy, setting aside the assumption that women acted within the restrictions and protections of their husbands and agnates. Understandings of rape are a prime example. Scholars have long argued that rapes often were not reported to the courts, in the Middle Ages as in contemporary society. As Trevor Dean wrote in a 2001 study of crime in medieval Europe, '[o]f all the crimes perpetrated against women, rape stands out for the ineffectiveness of the law'.⁴ There was little incentive to report a rape. A charge might be a way to force the accused man to marry his alleged victim, as prescribed in canon law, but this outcome was rare and could be problematic. In general, as scholars including myself have argued, rape convictions were rare and penalties were light. An accusation that a woman had been raped could only damage her reputation and honor and that of her family.⁵ Studies of rape cases in late medieval Italian civic courts have found them to be scanty. A study by Giovanna Casagrande and Michele Pazzaglia of judicial records from thirteenth-century Perugia is a fairly close comparison. Over three years, they found 121 female victims of crime, 23 of them cases of carnal violence.⁶ Scholars studying later centuries have found far fewer. For example, Florentine court records from after 1343 are voluminous, but rape cases are rare. Lynn Laufenberg sampled roughly 1500 cases from the court of the podestà between 1340 and 1415, and found 100 that concerned rape.⁷ Samuel Cohn found five Florentine cases from 1344–45 and two from 1374–1375.⁸ The evidence from Bologna's criminal court in the late thirteenth century simply does not fit this view. I have found ninety-five rape and attempted rape cases from three years, 1286, 1287 and 1289, sixty of them accusation procedure and 35 inquisitions. In this contribution I seek to think outside the line about women and violence in late thirteenth-century Bologna, examining what I can reconstruct of the experiences of the urban poor, working women in thirteenth century Bologna, many of whom evidently lacked dowries. I will suggest some ways in which they fended for themselves, including attempts to make use of the criminal court as a source of violent remedies, even surprisingly often by means of rape accusations.

In what ways did poor women understand their experiences and identities? As Lynn Thomas has pointed out, to say that they had agency is not to provide an interpretation but to pose a question. Given the structural limitations of their status and circumstances, in what ways could they fend for themselves?⁹ Sometimes, poor women took advantage of opportunities in surprising ways. Women who had little property or family were terribly vulnerable, but they also could at times enjoy an ironic freedom from constraint. A woman who lived with a man as his *amasia*, concubine, lacked the legal and customary protections accorded to married women. However, a married woman also was constrained. For example, a woman could only leave a violent husband and reclaim her dowry if she could prove in a church court that he treated her with *saevitia*, savage cruelty. An *amasia*

was legally free to leave.¹⁰ The various circumstances of poor women shaped how they responded to violence and how they sought to use it.

Evidence for poor women in thirteenth-century towns can be scarce because they rarely show up in notarial records like dowry contracts or testaments. Criminal court records are an exception. Propertied people went to great lengths to protect family honor by keeping their wives, sisters and daughters out of the courts, but poor women made very public appearances in court all the time. They acted as witnesses, victims, accused criminals and surprisingly often as accusers. Criminal court records are scarce for most thirteenth-century towns, if they survive at all. However, there are exceptions, including Lucca and most notably the extensive records of Bologna's criminal court. These registers are an unparalleled source for the experiences, practices and understandings of the poor, including women who did not live in legal marriages: concubines, sex workers, servants, runaways, even a person termed a 'female sodomite'.¹¹ Mentions in court records suggest that their social practices and attitudes could be fluid, sometimes improvised ways to live in the city.

Thirteenth-century Bologna was a distinctive, cosmopolitan town. Its extraordinary surviving civic records and visible poor women were largely due to its university, termed the *Studium*. Briefly, the presence from the eleventh century of famed legal scholars attracted growing numbers of students, lay and clerical, lured from across Europe because the masters in Bologna could provide them with the specialised training they needed to advance in legal, administrative or medical careers, including knowledge of Roman and canon law, the *ars dictaminis*, the notarial arts, and medicine. There was no Faculty of Theology until 1364.¹² While students in northern universities like Paris, Oxford, or Cologne tended to be in religious orders and lived in colleges that combined residential and academic functions, in medieval Bologna, most students lived in rental housing in the community, making them more closely engaged with the life of the town.¹³ They show up in court records in a variety of roles: gamblers and revelers, victims of theft and assault, witnesses, sometimes *amasios*, lovers. Numbers of students are difficult to estimate and also fluctuated. Stelling-Michaud found the names of 2056 students in published records related to the Studium from 1265–1269 and 1286, and roughly half of them came from outside Italy.¹⁴ Antonio Pini has suggested that there were probably 2000 students in 1300. A student's average stay was five years, and some remained for seven or eight. Most were wealthy, and required not only masters, housing, and provisions, but domestic services and goods, including luxuries, credit, entertainment, and, especially, books.

A cosmopolitan town with a large population of well-to-do students drew immigrants, including skilled artisans, like textile workers, goldsmiths, and *scriptores*, copyists. There also were women who evidently saw, in well-to-do students who were not locals, opportunities to provide paid services like laundry, shampoos, companionship, meals and sex. It is impossible to know how many were immigrants, although there is anecdotal evidence. Zoana, the runaway *amasia* mentioned above, came from England. A laundress who makes an appearance in the 1296–1297 *estimo*, tax survey, was called Adelina Teutonica and probably was a German immigrant. She owned a house, supported herself, and even extended

credit: Adelina listed in her return an interest-free loan of six *lire* to a neighbor and a debt of eight *lire* owed to her by a student for doing his laundry.¹⁵ Laundry was surprisingly lucrative. A fragmentary inquisition record concerns another laundress, Bendonia, who had purchased a house with her earnings and a six *lire* loan. Her brother went to court after her death to ensure that her son would inherit her house, rather than her *amasio*, lover, whom the brother described as the shiftless gambler who had killed her.¹⁶

Witnesses in court spoke under oath of women in a variety of living situations that were not married households and often did not adhere to the Roman Church's teaching on sexual morality.¹⁷ Of course, witness testimony in inquisitions was often formulaic, always shaped by the questions of the judge and the proofs of lawyers. It surely was not always truthful, but it did have to be plausible. Witnesses mentioned *amasie*, unmarried women who engaged in sexual relations but in theory were not prostitutes, who were common, although their numbers are hard to estimate. Many were men's co-residential concubines and surely provided domestic service. Others worked and lived on their own but had an *amasio*, a lover, or perhaps several. Records from the town's general inquisitions into people considered infamous in law include inquiries into the presence of prostitutes in the neighborhoods which provide glimpses of women who lived together in shared households, worked, and also provided sex and comforts to a few men, often students, in exchange for gifts.¹⁸ Incidental references suggest that giving a shampoo, literally 'washing men's heads', was common. One man questioned in a prostitution inquest stated that he rented a house 'to keep a youth called Lucia, whom he has and keeps as an *amasia* . . . she gives shampoos to men who come to her there, and she goes around the inns giving shampoos to students and others . . .'¹⁹ Their social practices and attitudes could be fluid, sometimes improvised ways to live in the city. The line between *amasie* and prostitutes, not surprisingly, was often blurry.²⁰ In this period before the creation of civic brothels, sex work could in practice be a part-time source of income, and not an identity. Bologna ineffectively attempted to control sex workers by banning them from a growing list of neighborhoods, except for a few peripheral parishes which, as Gregory Roberts points out, effectively became red-light districts.²¹

What of violence? Prostitution inquisitions, mandated by statute, were state violence directed against women, although Rossella Rinaldi has shown that judges were often lenient to prostitutes in practice.²² Massimo Vallerani has pointed out that the influential judge Alberto da Gandino had prostitutes arrested and expelled if they were found within thirty *braccia*, roughly sixty feet, of the cathedral, again mandated by statute. Vallerani cites an instance in which Alberto ordered the prison custodian to beat one of the arrested women and shave her head.²³ Perhaps Alberto was an exceptionally severe judge. The most common accusation to the court was assault, and women often appeared as its victims.²⁴ Poor women also could be savvy about the criminal court and try to use its capacity for violence to their advantage. Often, women filed accusations directed at other women. Verbal defamation accusations were common, including women who swapped insults, sometimes lurid ones. In one exchange between two neighbors which took place near the cross in the *piazza comunale*, the accuser produced five witnesses whose accounts of their insults varied

but included 'whore', 'pimp', 'you have two men and deserve to be burned', and, implausibly, 'you dug up a man's corpse and committed necrophilia'.²⁵ Women might make accusations or notifications to the court as pressure tactics or to settle scores, sometimes playing on gender expectations to mention practices that civic statutes treated as serious crimes. One case that illustrates these themes is a contest between two women, an inquisition case which actually went to trial. A notification to the court of an *inhonesta*, disreputable, woman running prostitutes turned out to be retribution and a failed pressure tactic. Blonda notified the court that Megliore, an immigrant from Florence who lived in the Capella San Martino, was a notorious pimp who ran a brothel where she lived, had had *mala fama*, ill fame, for over thirty years and literally kidnapped little girls and let men corrupt their virginity for money. In particular, she had furtively stolen Dulze, Blonda's daughter, kept her in her house against her mother's will and sold her to men. Four witnesses named by Blonda supported her story and threw in more lurid and legally threatening details: Megliore kept not only prostitutes but sodomites, practiced magic and had cast a spell on Dulze. This evidence was enough for the judge to cite and summon Megliore.²⁶

Megliore showed up in court and hired a lawyer who brought in ten witnesses to testify to a list of defense points demonstrating her good character and disparaging Blonda's. Megliore's defense witnesses testified that she was said to be married; Blonda on the other hand was a prostitute and also a pimp who prostituted her own daughters. Asked by the judge how he knew that Blonda's daughters were prostitutes, a witness replied that he had paid one of them for sex. Some witnesses spoke of Blonda's rage and threats of retribution. Magister Guilelmus, a physician, said he knew Megliore but nothing about prostitutes or a brothel. He did know that Dulze lived with her and was a man's *amasia*, and he many times had seen Dulze's mother rage at Megliore. Some testified that Blonda's son Zuccherino had been banned for offenses against Megliore. Two witnesses stated that they had heard Blonda tell Megliore and her daughter that if Megliore did not make peace with Zuccherino, which would cancel the legal ban, Blonda was going to lodge so many notifications against Megliore that it would get her burned.

One of the main functions of the court was to inculcate and enforce behavioral norms, including gender expectations. Following the teaching of the Roman church, the law maintained a dichotomous understanding of women as *honesta* or *inhonesta*, based on their sexual behavior.²⁷ Blonda used this understanding when she went to some lengths to characterise Megliore as *inhonesta*. The dichotomy was critical if a rape case went to the probatory phase, because the defense usually hinged on the reputation of the female victim. If the accused man's lawyer produced enough witnesses who could testify that she was *inhonesta*, a disreputable woman who sold sex, then the rape charge failed because she was deemed a prostitute: she was common to all men and could not be raped. Her defense was to produce witnesses who testified that she was an honest woman. These witnesses challenged the dichotomy, defining female honesty in terms that ignored not only legal categories but the teachings of the Church. The restrictive gender expectations which shaped the lives of women in propertied families did not hold for poor women who probably did not marry because they lacked dowries.

One vivid example is an ex officio inquisition into rape from August 1295. Someone anonymously notified the court that Nicolao, a member of the prominent Bentivoglio family, had tricked his way into the house of a woman named Tomasina with the aid of her godmother, and raped her. Tomasina was questioned and denied the rape, as did her godmother and Nicolao. When the judge questioned her neighbors, they disagreed. Many backed Tomasina's story, but two stated that Nicolao had raped her and that his friends had made 'big efforts' for him: the parish priest had brokered a deal in which Nicolao paid her a whopping fifty *lire* to deny the charge. Both Tomasina and Nicolao initially denied the rape and then confessed to it, perhaps under torture because of their false testimony. In the ensuing trial, Nicolao's witnesses defended him by testifying that Tomasina was a prostitute. Her witnesses denied it, stating that she was *honesta*: she supported herself by running a hostel and had long been the *amasia* of Micolo, who visited her and treated her with respect but lived with his father. Female honesty was not defined by chastity.²⁸

The most surprising and revealing aspect of women and violence in Bologna's thirteenth-century courts is that women in Bologna were far quicker to accuse men of rape or attempted rape than the scholarship on rape would predict. I have found sixty accusation cases of rape or attempted rape in six well-documented semesters of Bologna's criminal records, 1286, 1287, and 1289, and 35 inquisition cases for the same period.²⁹ Why so many accusation cases?³⁰ Again, scholars have argued that women and their families were reluctant to charge rape, since it could damage their reputations, and convictions were rare. This view pictures a victim as a respectable girl or woman with a dowry, living in a married household, with a kin group concerned about how her sexual reputation might affect her prospects and their honor. Many accusers do not fit this model. In 32 of the sixty accusation cases, the alleged victim was not married and had no living father or husband; only seven of these thirty-two cases mention any male kin.³¹ In fifteen cases, the women acted with the consent of a *curatore* (guardian or trustee), indicating as Sarah Blanshei has pointed out, their vulnerability.³² Ten of the women with *curatores* had no mention of a living father, a husband or other male kin.³³

A major reason that women filed so many rape and attempted rape accusations is opportunity: the availability of Bologna's distinctive accusatory procedure.³⁴ The initial stage of an accusatory trial required only the consent of the victim if she was not the accuser and a brief formulaic document termed a *libellus* stating the accusation. In a rape or attempted rape case this meant narrating the names of the victim and the accused, the location, the action, in these cases carnal knowledge which was against the victim's will since she cried out for help. In an attempted rape case the formula was that the attacker would have had carnal knowledge were it not for the people who who responded to her cries for help. The *libellus* also stated whether there were any further injuries and bloodshed. Initiating an accusation was inexpensive. If an accuser stopped the trial after the *libellus* and the accuser's oath to tell the truth, before prosecution, he or she was simply liable for a modest fine, 12 or 20 *soldi*. If a trial did proceed, the accuser had to post an expensive security, provide guarantors who also had to post securities, hire a lawyer and name witnesses,

to be approved by the court. Massimo Vallerani found that roughly thirty percent of trials in late thirteenth-century Bologna stopped before prosecution. One common reason is contumacy: the accused did not appear in court, which could be for a number of reasons, including an inability to post a security and provide guarantors. Contumacy, after a lengthy process of citation and summoning and provisional ban and recorded ban, was considered a confession of guilt.³⁵

Why might a poor woman or her representative file an accusation of rape, or at least consider one? These women do not appear to have had family honor to protect. They had little to lose and might have hoped for an out-of-court settlement, perhaps a marriage or even a bribe. However, those outcomes were rare. Only one of the sixty accusation cases ended in a marriage, and the only instance of a bribe that I have found is Tomasina's fifty *lire*.³⁶ In most cases the accused man failed to appear in court and ended up banned for contumacy.³⁷ Why bother to charge him? Sometimes a ban would have been desirable. This assumes that many accusers or whoever advised them knew enough about accusation trials to know that the early stage was cheap and accessible, and that the imputed often failed to show up in court and suffered a ban. They also may have known enough about the accused man to expect him to flee. If he failed to show up after the citation and summoning process and the provisional ban's deadline he was contumacious and would be banned, which meant that the court would prescribe a punishment, ranging from paying a fine and sometimes making peace with the accuser to decapitation.³⁸ Once the ban was transferred to the notary of the *Dischum Ursi*, the office with jurisdiction over the payment of fines, and recorded, he was an outlaw, which meant that he could be killed or injured with impunity. It may well be that this was what the accuser expected. The effect of the accusation was to drive him out of the community, and the accuser simply could drop the charge and pay a modest fine.³⁹ Assuming the charge was true, she had protected herself and her neighbors from a dangerous man by driving him into outlawry. My larger point is that the relatively high number of rape accusations in Bologna in the 1280s, many of them by low status women, challenges understandings of female gender expectations based on assuming that all shared the values of propertied families which linked female sexual reputation with family honor.

The accusation cases are roughly sixty percent of the rape or attempted rape cases that I have found for these years. The rest are inquisition cases, which provide more far more detailed accounts of the alleged victim, the context of the crime and the legal process, but also can be more ambiguous. My sample of inquisition cases from 1286, 1287, 1288 and 1289, includes records from 25 rape and sixteen attempted rape cases.⁴⁰ These numbers are by no means an accurate count of the rape cases adjudicated in inquisitions during these four years because the registers are incomplete and often only pieces of a case survive. However, they are suggestive. Accusation trials were a legal mechanism people used as part of their efforts to resolve their conflicts. Inquisition procedure, by contrast, was a thirteenth-century invention, and its purpose was not to resolve conflicts so much as to maintain public order and punish those found guilty of crimes that were specified by statute to be detrimental to the commune.⁴¹ It was the investigation

and questions of the judge rather than the accuser which drove the trial. An older scholarly tradition treated inquisitions as the rise of public justice based in state power, a view that has been much debated and revised. In addition, Massimo Vallerani, among others, has shown that the line between the two procedures was blurry in practice.⁴²

One aspect of the inquisition rape cases that supports the view that contumacy could be a desired outcome is detailed testimony to cases of extreme violence before, during, and after a rape. Some were conventional: women who suffered *raptus*, abduction, were often described as dragged by their hair or by their feet. Others were specific. A girl named Jacobina said that a man grabbed her, tied her hands, beat and cut her, even bit her.⁴³ Jacobina was termed a *puella*, a girl just of marriageable age, roughly twelve. In another case, a man was said to have dragged an orphaned virgin *puella* named Domingina into a market stall and raped her. Domingina was said to be twelve or thirteen. The notary reported her account of the rape and her extensive bleeding experience in unaccustomed and explicit detail, concluding:

She had as much pain as if he had killed her, and because she did not want to consent he beat her with force and great force on her face and person and legs and ribs and tore her, and he had no mercy for her.⁴⁴

In the thirteenth century as in the contemporary world, it is a serious error to imagine that rape was simply driven by sexual lust. This was violent aggression, and there was good reason to try to drive some of these men away.

A number of the alleged victims in inquisition cases were probably vulnerable and perhaps undowered. In 15 cases, she had no living father and there no evidence that she was or had been married.⁴⁵ In two cases she was identified with a matronymic, implying an unmarried mother.⁴⁶ For example, Borghixia, the alleged victim's mother, who was unmarried, notified the judge that Dominicus forcibly kidnapped her daughter Caracosa from the house of Jacobus Venture, took her outside the city, had sex with her against her mother's wishes, and now kept her in order to have sex with her. Caracosa was identified with her matronymic rather than a patronymic. Witness differed on whether she was willing.⁴⁷ In six cases, the alleged victim was termed a *puella*.⁴⁸ In four of these cases, including Domingina and Caracosa, the alleged victim was probably a *famula*, a servant. Caracosa was living in a household of Jacobus Venture, probably unrelated to her, and Jacobus testified that Dominicus told him that he had her with him, a conversation that does not suggest kinship. Domingina came from the countryside but was living in town in a household unrelated to her, and was attacked when she was by herself in the market, buying figs.⁴⁹

Analysis of inquisition cases is complicated by the difficulty of determining who initiated the trial. The *libellus*, document which initiated an accusation case, was required to include the name of the accuser. An inquisition was initiated when parish officials or the victim or someone acting on her behalf notified the judge of the crime. The judge also might initiate an inquisition *ex officio*. Inquisitions

often do not identify notifiers, even when they did not seek anonymity.⁵⁰ In the case of Divicia, discussed below, she was not named as the notifier in the inquisition, but the contract she made with a notary to act as her lawyer stated that she notified the judge. It is all too easy to speculate on the motives of an anonymous notifier. In the Bentivoglio rape trial discussed above, the notifier might have been the parish official, for urban parishes termed the *ministrale*, doing his duty. It is also possible that someone urged him to do so. Perhaps Nicolao and the Bentivoglio family were the target, since the trial could have political ramifications, especially in a tense period of war with Azzo VIII d'Este of Ferrara.

One case illustrates how the alleged victim's kin and neighbors instigated a notification made by the rural parish official, termed the *massarius*. A *puella* named Ymelda was on her way to a priest's mill in the countryside when Granellus threw her to the ground. Granellus' brother held her by the throat as Granellus injured her to force her to comply, and raped her, corrupting her virginity. Ymelda returned home, where her mother found her, injured and weeping. Seventeen witnesses from the community testified, some simply to *fama*, others to seeing the injured girl after her return. The next morning, Ymelda's mother, her maternal uncle, and a neighbor went to the house of Moltobonus, the *massarius*, to ask him to come to see the girl and then notify the court. Moltobonus did see and speak with the injured girl, and surely was aware of community sentiment. He notified the judge, terming it because of her age a terrible crime, an *enorme delictum*.⁵¹

However, sometimes notifiers are named and in four cases in this sample it was the alleged victim. All four were in difficult or low status circumstances. The orphaned *puella* named Jacobina mentioned above who lived in her uncle's house notified the court of her violent attempted rape. Her cries for help drew neighbors and her uncle Sarzus. His immediate reaction to the assault on his niece is a rare example among these cases of the victim's kinsman treating her rape as an assault on his honor. He stated in his testimony that 'he cried: "help! I have been assaulted in my home"'. The accused man was contumacious and banned in one thousand *lire*.⁵² An orphaned girl living in her uncle's household might be a somewhat unwelcome burden, and the fact that Jacobina and not her uncle notified the court may indicate a strained relationship.⁵³

Blasia, an unmarried woman with a dead father who lived in the countryside, notified the judge that as she was walking with Johana, a servant, Andreas, a man from her community, raped her.⁵⁴ A few clues suggest low status: her companion was someone else's servant, and one witness referred to her as 'quedam mamula cuius nomen ignorat'. *Mamula* often meant a young girl, but could also mean a servant or prostitute, so this could be translated as 'some girl' or 'some servant or prostitute whose name she did not know'.⁵⁵ Andreas was absolved.⁵⁶ Jacobina, the unmarried daughter of a man who lived in a different rural community, was on her way to Bologna carrying grain, presumably to the market, when Pasquale, son of a titled man, grabbed her from behind, threw her on the ground and knew her carnally. She notified the judge. Some witnesses stated that he did not actually force her, but all said he wanted to, including the *massarius*. Pasquale was banned in one thousand *lire*.⁵⁷

Divicia, a servant whose father was dead and whose case mentioned no other kin, notified the court herself.⁵⁸ Her alleged attacker was also the son of a titled man. The story she told is a vivid picture of an independent woman who suffered a cruel trick.⁵⁹ Divicia was on her way to a friend's house in town when Rolandinus stopped her, told her that he knew her brother-in-law, and needed a servant to care for his ailing wife. If she would do so, he would pay her well. Divicia agreed and went with him to his house. Once she was inside the door, Rolandinus shoved her down the stairs into a horse stall, and attempted to rape her. When she resisted, he beat her to keep her from crying out. Divicia escaped, wounded, disheveled and weeping ('vulnerata et discapillata et plorendo'). She notified the court and paid a notary to act as her procurator. The case was hopeless, since she had no plausible witnesses. The judge asked her two questions that would have shamed a higher status woman and family. Asked, Divicia admitted that she was not a virgin. Asked whether she literally 'had a man', she replied that Petrozulus had wanted to take her as a wife, but she did not want to do so. Rolandinus was absolved. Why did Divicia notify the court? She evidently did not consider it a loss of honor, perhaps she was angry at Rolandinus's trick and assault, and again, perhaps she hoped for retribution.

Young women who fended for themselves might not choose wisely. In a handful of these cases, the alleged victim's relatives denied the rape and said the girl had run away to a man, perhaps indicating that she gave up a dowry. Someone notified the court that three students, led by Maxinus, had kidnaped Margarita from the prosperous parish of Santa Tecla, an *enorme delictum* since Margarita was 12.⁶⁰ She had lived with her brother and her mother, who testified that she chose to run away and lived with Maxinus. The mother stated that she had been walking in the Saragozza neighborhood with Margarita behind her when the girl ran away. Witnesses spoke of her living with Maxinus and eating and drinking with him.⁶¹ In another case, Buvallellus, again the son of a titled man, was charged with kidnapping Ghisola, the daughter of a widow, taking her to his residence and raping her. Three of four witnesses testified that Ghisola had been willing and that Buvallellus kept her as his woman and *amasia*.⁶²

Finally, one inquisition is a graphic account of rape as aggressive violence and sets out how three women linked to the sex trade responded to it. It is an investigation of the brutal gang rape of a woman called Lucia, a rape which probably killed her.⁶³ Her father was dead, and there is no mention that she had kin, a stable residence, or resources. Lucia clearly had to fend for herself, and witnesses mention sex work and begging. Lucia, like Margarita, came from the parish of Santa Tecla, near the *piazza comunale*, an area that in exactly the same period was subjected to inquisitions into prostitution.⁶⁴ Lucia was speech impaired and nicknamed Muta, and she must have been a familiar figure: the inquisition was headed 'Muta', and all but two witnesses called her Lucia Muta, or simply Muta.⁶⁵ The anonymous notification in late January of 1286 stated that four men, who were named, kidnaped her from the *piazza comunale* after curfew, forcibly dragged her by her arm or hair to the house of Jacobus Theutonicus, Jacob the German, and raped her, corrupting her virginity. 'Wherefore you are requested by your

honor to investigate these things and proceed on them as much as is fitting for your honor'.⁶⁶ This plea, calling on the honor of the judge, recalls the way countryfolk denounced nobles to a special Florentine tribunal forty years later. They often called on the judge's honor and begged for justice against nobles who mistreated the weak.⁶⁷ Who wrote it? The local *ministrale* probably would not have used this phrase, and it cannot have been the victim, who could not speak, was near death, and had no close kin. The details of the notification did not stand up to scrutiny, including three of the imputed men, and Lucia's virginity.

The notifier had suggested questioning Jacobus Theutonicus, his wife, and *familia*. On January 28, the judge questioned Verdenese, who was not Jacobus' wife but his *amasia*. She knew Muta, she said, and it was when Muta left the witness' residence that the four men took her to what Verdenese termed 'a pimp's house near the Torre Garisenda' and knew her carnally. Verdenese had heard it said that Lucia went willingly. Lucia had been selling sex for over a year. Verdenese knew it because she had heard it said, and had seen her begging for money from many passersby, as, she said, prostitutes do. Jacobus Theutonicus, questioned briefly, stated that he knew Muta and the imputed men, and that he said what Verdenese had said.

The judge had the four imputed men summoned and cited. One of them, Avanzinus, was contumacious, had his ban recorded, and became an outlaw in late February. The other three imputed men did testify, stating that they were not guilty and the notification was untrue. The judge questioned a number of witnesses: an unmarried woman and her daughter testified briefly that Lucia Muta had good *fama* and was considered a good person in their parish, and a number of men stated either that they had heard about the rape or that they knew nothing.

On January 30, a physician at the request of the judge went to see Muta and reported terrible injuries. She was 'very ill'. Her vulva was 'fracta', and torn at both ends, which in his view was done by a male instrument, so that her 'ponticulus que est in medio', evidently her perineum, was also torn at both ends. Muta, he stated, was almost at the point of death unless she got proper care. A woman who accompanied him, surely a midwife, testified that she agreed. The same day, surprisingly, two people testified to first-hand knowledge. Johana, called Maria, unmarried, provided a guarantor, and testified that 15 days before, she had been in the house of Pelligrinus the innkeeper when Savorinus, Pelligrinus, and Gherardus brought Muta there. The inn was in the parish of San Laurentius de Guarinis, which was in the town center, very near the Garisenda tower, and was probably the pimp's house mentioned by Verdenese.⁶⁸ The men first had dinner with Lucia, then took her to another room, and all three forcibly raped her. Asked how she knew this, Maria stated that she had seen Lucia come to the inn and have dinner with them. She had not seen the rapes but had heard Lucia wailing and screaming in pain ('ululantem et dolentem'). Later, the three men told Maria that they had all had carnal knowledge of Muta. Asked, Maria suggested questioning *domina* Jacobina, a married woman, and her *amasio*, Petrus Assasini. Both provided guarantors and testified. Jacobina agreed with Maria: she had been in the house next door that night, heard Lucia wailing and screaming, and the following day heard

Pellegrinus say that all three had had sex with her, in turns. Her *amasio*, Petrus Assasini, stated that he knew of the rape by *publica fama*. Asked whether he had been in the house next door when she was forced, he responded no, not as far as he knew. Had he heard her screaming? No, not as far as he knew. The next day, he testified that he had been in the house next door and had heard noise from some men and a woman but did not know them, and the following morning Savorinus and Pelligrinus told him that they had had some woman, namely Muta, in the night. Jacobus, questioned again, stated that he knew Muta, and had kept her in his house for a period of time. She went out at night. He also knew the four men, who occasionally came to his house and ate and drank. Verdenese concurred: Muta stayed in the house with her and Jacobus for a time and ate there, but not when the four men were present. She never heard that Muta had been forced and was ill. The judge summoned and cited Pelligrinus the innkeeper and Gherardus, who ultimately were banned and became outlaws.

This inquisition is revealing in a number of ways. The first is sheer impunity: the two men spoke freely of their rape of Lucia. Second, the judge held not a pro forma but a careful inquisition into the rape of a probable sex worker, including expert medical witnesses. Third, it is a rare glimpse of women who were *amasie* or sex workers or both responding to the brutal gang rape of a poor disabled woman whom they knew, in the courts. None of them were married except possibly Jacobina, who at any rate was in bed with her lover.⁶⁹ When the judge investigated, they provided the evidence needed to find out who was responsible. Maria in particular gave specific eye witness details, and her testimony was supported by Jacobina's. By contrast, the men, Jacobus Theutonicus and Petrus Assasini, were initially terse and vague. Jacobus, when questioned a second time, simply admitted that the four men and Lucia had come to his house. Petrus stonewalled, and only admitted to hearing Lucia scream and the three men brag when he was asked a second round of questions.

Why this difference? It is tempting to view the two eyewitness women as determined to incriminate the men who played a nasty trick, brutalising a defenseless fellow sex worker, and perhaps they were. Jacobina and especially Maria evidently did not fear retaliation by three demonstrably violent men. Crucially, they knew that they were legally not much at risk. Their low status and lack of protective kin freed them to testify. At worst, they could be deemed prostitutes, perhaps given a beating and chased out of the neighborhood. Jacobus was far more at risk because of the notification that the rape had taken place in his house, and in his second round of questioning responded to the charge. Petrus surely was intimidated: implausibly evasive, he initially denied any knowledge of his own experiences. He did not know whether he had heard Lucia screaming. The result was that the rapists were identified, banned for contumacy, and became outlaws. As in many cases, the effect was to drive violent men away. Given Lucia's experience and injuries, their horrific cruelty marked them as real dangers to vulnerable women.

I have followed Lynn Thomas in suggesting that to think about poor women and violence in terms of agency is not to offer an interpretation but to pose a question. Given the structural limitations of their status and circumstances, in what

ways could they fend for themselves?⁷⁰ Rape cases in thirteenth-century Bologna are particularly revealing because they challenge the long-standing assumption that women were reluctant to charge rape because of the potential damage to their honour and that of their families, and because convictions were rare. In fact, low-status Bolognese women were demonstrably savvy about the courts, and did use them to pursue rape charges. In the thirteenth century, poor women used the inexpensive and accessible accusatory procedure to charge rape, and were very often successful not in winning a conviction but in pressuring men they accused of rape into contumacy and, with luck, getting them banned and driven out of the neighbourhood. And as the case of Lucia Muta indicates, women linked to the sex trade could be savvy enough about the law and the courts to know both that they could testify to a brutal rape without putting themselves much at risk and also that their testimony could be enough to drive the accused rapists into contumacy and get them banned and outlawed. In at least this case, the women evidently took advantage of the opportunity.

Notes

- 1 For a brief overview of the scholarship see Mosher Stuard 2013. Kuehn 2016 is a magisterial recent study. On Bolognese statutory law on dowries, Giuliodori 2005.
- 2 Jacopo da Varazze 2007, vol. I, ch. 3, p. 44.
- 3 Fauvelle 2018.
- 4 Dean 2001, p. 82.
- 5 Brundage 1987, pp. 469–479.
- 6 Casagrande and Pazzaglia 1998–99. The registers derive from 1262–1263, 1286, and 1287.
- 7 Laufenberg 2000, pp. 42–43 and 337–339. Laufenberg followed the Roman law definition of rape as *raptus*, abduction, and *stuprum*, literally defilement.
- 8 Cohn 1996, p. 30.
- 9 On agency linked to situation and status see Scott 1991, p. 793; Thomas 2016.
- 10 For discussion of a case in which an amasia named Zoana escaped an abusive man who claimed that she was his wife, see Lansing 2003, pp. 85–100. The case is in Archivio di stato di Bologna (hereafter ASB), Inquisitiones, Mazzo 16, 3r–6r. It was edited by Kantorowicz 1907–26, vol. 1, part 2, no.22, pp. 218–223.
- 11 See Lansing 2005.
- 12 See Lines 2018. The discussion of the Theology Faculty foundation is on p. 443.
- 13 Pini 1987a, p. 86.
- 14 693 of them were ‘citramontani’ (from within Italy) and 1363 ‘ultramontani’ (from across the mountains); cited by Pini 1987a, pp. 64–65. He points out that the study was based on records in the *Chartularium Studii Bononiensis*.
- 15 Smurra 2012; the discussion of Adelina is on p. 92.
- 16 ASB, Inquisitiones, Mazzo 19, fasc. 10, 10r–11v.
- 17 See for a recent discussion of witness testimony that reveals community attitudes about sexually active women which broke with the dichotomous view of the late medieval Church Hutchinson 2020, pp. 131–148.
- 18 See Lansing 2018.
- 19 ‘Pro tenendo ibi quadam iuvenem qui vocatur Lucia quam ipse habet et tenet pro amasiam et in dicta domo tenuit et tenet dictam Luciam que ibi lavat capita hominum venientem ad eam et vadit per hospitia lavando capita scolarium et aliorum . . .’: ASB, Inquisitiones, Mazzo 2, fasc. 12, 6 verso.

- 20 On ways in which women were recruited into prostitution, Mazzi 2018.
- 21 Roberts 2018, p. 194. Roberts cites *Statuti di Bologna dell'anno 1288*, I, pp. 197–201.
- 22 Rinaldi 2021.
- 23 Vallerani 2018, pp. 42, 52 n. 21.
- 24 Vallerani 2018, p. 133 found that assaults comprised 62% of accusation cases in 1287 and 64% in 1288.
- 25 ASB, Accusationes, Busta 8b, register 10, 56v–58r.
- 26 On the anxieties of court officials about illicit sexuality and magic, see Wieben 2017.
- 27 Brundage 1982, pp. 144–145.
- 28 ASB, Inquisitiones, Mazzo 35, filza 6, 32r–42r. On the use of torture in inquiries into the crime of false witness see Blanshei 2010, p. 320; on torture of members of Bologna's guilds Blanshei 2010, p. 321. I provide a detailed discussion of the case in Lansing 2013.
- 29 For a more detailed discussion of the legal definition of rape, Bologna's statute and these rape accusations see Lansing 2018.
- 30 Casagrande and Pazzaglia 1998–99, present roughly comparable numbers, given the relative size of the courts. In three years of Perugian criminal court registers (1262–1263, 1286, 1287), they found 121 female victims, 23 of them cases of carnal violence.
- 31 Cases which identify the victim as unmarried, with a dead father, and mention no other male kin are ASB, Accusationes, Busta 5a, Register 1, fol. 23v; Register 2, fol. 11r, 65r, 121r; Register 3, fol. 26r; Register 5, fol. 1v; Register 8, fol. 6r; Register 10, fol. 10v; Busta 5b, Register 18, fol. 17v, Register 19, fol. 8r, Busta 6a, Register 1, fol. 36v, 89v; Register 3, fol. 13v; Busta 6b, Register 10, fol. 52v, 68r; Register 11, fol. 2v; Register 14, fol. 2; Register 15, fol. 4v, 5v, 22r; Busta 8a, Register 1, fol. 79r; Register 8, fol. 20v; Busta 8b, Register 10, fol. 1r, 40r; Register 11, fol. 6v, 14v, 16r; Register 14, fol. 6v, 7v, 38r.
- 32 Email communication of 9 September 2017. On *curatores*, see Vallerani 2012, pp. 141–142.
- 33 For cases of women with a *curatore* who probably lacked parents or resources: ASB, Accusationes, Busta 5a, Register 2, trial of May 8, 1296 (unclear pagination); Busta 5b, Register 17, fol. 22v; Busta 6a, Register 1, fol. 17r; Busta 6b, Register 15, fol. 24r; Busta 8a, Register 12, fol. 20r. For cases of women with a *curatore* and no mention of a husband or male kin: ASB, Accusationes, Busta 5a, Register 2, fol. 11r; Busta 6a, Register 1, fol. 36v, 89v; Busta 8a, Register 1, fol. 78v; Register 7, fol. 16v; Register 10, fol. 1r; Register 11, fol. 14v; Register 14, fols. 6r, 7v, 38r.
- 34 Vallerani 2012, ch. 3.
- 35 Vallerani 2012, pp. 158–159.
- 36 Lansing 2013.
- 37 I was unable to take a planned trip to the Bolognese archive in April–May 2020 in order to analyse how many rape cases demonstrably ended in contumacy.
- 38 On peace accords in the Perugian judicial system, see Vallerani 2012, ch. 4. On notarial peace pacts see Wray 2009. There are two recent studies of late medieval Italian peace-making: Kumhera 2017; Jansen 2018.
- 39 On the process of summons and ban, see Sarah Blanshei 2010, p. 485. On the pursuit of outlaws, Roberts 2019, chs. 4 and 5.
- 40 This includes six from 1288, the year that is not included in the accusation sample because of a lack of surviving accusation registers. Vallerani 2018, p. 43, has estimated that the court handled 150–200 inquisition cases a year.
- 41 On the crimes that could be adjudicated by the *podestà's* inquisitorial power listed in Bologna's 1288 statutes, see Vallerani 2012, pp. 274–275.
- 42 See the discussion of inquisition trials and the debates over their purpose and significance in Blanshei 2010, pp. 314–320. On the development of inquisitorial trials in Bologna, Vallerani 2012, ch. 6.

- 43 ASB, Inquisitiones, Mazzo 5, fasc. 4, fol. 66v.
- 44 'Et tantum dolorem habuit quam si occideret eam et quia tunc sibi consentire nolebat eam fortiter et fortissime percutiebat de manibus in facie et in persona et per crura et cossas eam squarzabat non habendo de ea aliqua misericordia': ASB, Inquisitiones, Mazzo 8, fasc. 1, fol. 4r.
- 45 Victims without a living father or evidence of a marriage are ASB, Inquisitiones, Mazzo 5, fasc. 4, fols. 64r–66r; Mazzo 6, fasc. 12, fol. 107r; Mazzo 7, fasc. 8, fol. 6r and fasc. 11, fol. 1r–v; Mazzo 7, fasc. 8, fols. 15v–18r; Mazzo 7, fasc. 12, fols. 3v–4r; Mazzo 7, fasc. 13, fols. 18r–14v; Mazzo 8, fasc. 1, fols. 1r–2r; Mazzo 8, fasc. 1, fols. 4r–7v; Mazzo 9 ter, fasc. 2, fols. 17v–18v; Mazzo 10, fasc. 5, fols. 11r–15r; Mazzo 11, fasc. 4, fols. 3r–4v; Mazzo 11, fasc. 4, fol. 48r; Mazzo 11, fasc. 5, fols. 14r–16r; Mazzo 12, fasc. 3, fols. 10r–12r; Mazzo 17, fasc. 1, fol. 31r–v.
- 46 Victims identified with a matronymic are Mazzo 7, fasc. 8, fol. 6r and fasc. 11, fol. 1r–v; Mazzo 11, fasc. 4, fols. 3r–4v.
- 47 ASB, Inquisitiones, Mazzo 7, fasc. 8, 6 recto; the witnesses are Mazzo 7, fasc. 11, f. 1.
- 48 Victims who are termed *puelle* are Mazzo 5, fasc. 3, fols. 30r–33v; Mazzo 5, fasc. 3, fols. 27v–25r; Mazzo 5, fasc. 4, fols. 64r–66r; Mazzo 8, fasc. 1, fols. 4r–7v; Mazzo 9 ter, fasc. 2, fols. 17v–18v.
- 49 Probable servants are Mazzo 7, fasc. 8, fol. 6r and fasc. 11, fol. 1r–v; Mazzo 8, fasc. 1, fols. 1r–r; Mazzo 8, fasc. 1, fols. 4r–7v.
- 50 See Blanshei 2010, pp. 314–315, 343–348.
- 51 ASB, Inquisitiones, Mazzo 5, fasc. 3, fols. 33v–30r (paginated backwards). The original denunciation is tucked into the register.
- 52 'Sarzus . . . cepit clamare accuromo quod ego sum insultatus ad domum': ASB, Inquisitiones, Mazzo 5, fasc. 4, fols. 66r–64r (paginated backwards).
- 53 For a girl who ran away from her uncle's household to a lover and was almost trafficked into prostitution, see Lansing 2002.
- 54 ASB, Inquisitiones, Mazzo 11, register 5, fols. 14r–16v.
- 55 For the term *mamola* or *mammola* used to indicate a servant or specifically a prostitute, the *Tesoro della Lingua Italiana delle Origini* (Guadagnini 2012) cites *La storia di Apollonio di Tiro*.
- 56 ASB, Inquisitiones, Mazzo 11, register 5, fols. 14r–16r.
- 57 ASB, Inquisitiones, Mazzo 5, fasc. 4, fols. 70v–68r (paginated backwards).
- 58 The actual inquest does not indicate this, but the contract with the notary she hired to serve as her procurator specified that she had notified the judge.
- 59 ASB, Inquisitiones, Mazzo 8, fasc. 1, fols. 1r–2r.
- 60 Giansante 2008, p. 179, reports that based on 1296–1297 *estimo* returns, the median wealth was 1,719 *lire*.
- 61 ASB, Inquisitiones, Mazzo 9, fasc. 2, fol. 17v.
- 62 ASB, Inquisitiones, Mazzo 11, fasc. 4, fols. 3r–4v.
- 63 On violence against prostitutes, Mazzi 2018, pp. 104–105.
- 64 For a contemporary inquisition into prostitution in the parish of San Laurentius de Guerinis, the probable location of Lucia's rape, see ASB, Inquisitiones, Mazzo 7, fols. 6v–8r.
- 65 ASB, Inquisitiones, Mazzo 7, fasc. 13, fols. 18r–14v (paginated backwards).
- 66 'Quare supplicatur a vobis quod honore vestri de predictis inquiratis et super predictis procedatis in quantum honori vestro convenit'.
- 67 See the discussion in Klapisch-Zuber 2006, pp. 130–133.
- 68 See Giansante 2008, pp. 136–137, for the location of the parish church, just within the late Antique Selenite walls.
- 69 Verdenense referred to her as a wife, but when she gave testimony she was called Domina Jacobina domini Alberti de Treviso.
- 70 On agency linked to situation and status see Scott 1991, p. 793; Thomas 2016.

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6 Legal regulation of sex crimes in medieval Serbia and the Mediterranean communes under its rule

Nina Kršljanin

Introduction

The sources of medieval Serbian law

The legal system of the mid-fourteenth century Serbian Empire was a complex mixture of layers and influences. Traditional Serbian customary law was tightly interwoven with influences from the East – the Rhomaian¹ (Byzantine) Empire and the Orthodox Church – along with occasional influences from other sources. While discussing the normative sources, however, the reader has to have in mind that almost no sources showing the application of those norms (contracts, verdicts etc.) have been preserved in mainland Serbia due to the general destruction in the Ottoman conquest.

The majority of Serbian monarchs passed only charters, the vast majority of them sources of particular law, issued to individual monasteries (only these have been preserved in large numbers), noblemen or cities. The first legal codification in Serbia was the *Zakonopravilo* (Nomocanon) of Saint Sava, passed when he became the archbishop of the newly founded autocephalous Serbian Orthodox Church (1219), during the reign of his brother, King Stefan the First-Crowned.² It was an original compilation of Rhomaian imperial and canon law, composed with multiple Rhomaian sources as models (the most notable being the entire *Procheiros nomos*), written in Slavonic, as were all Serbian legal sources. However, the scope of application of its secular norms is debatable. Firstly, because it was likely only applied by ecclesiastical courts (at least evidence to the contrary is lacking); secondly, because the Rhomaian norms implemented in it contained no stratification among free people, while Serbian society at the time was divided into estates – see section 1.2.³

The second attempt at creating a general corpus of laws for the entire country was the tripartite codification of Stefan Dušan, passed in 1349 and 1354, passed after his coronation as Emperor (Tsar) in 1346. Having conquered a large part of Rhomaian territory (an endeavor started by his grandfather, King Stefan Milutin, at the turn of the century), Dušan needed to create a compromise between the old, northern, Serbian part of his Empire (where the sources outlined above were in use) and the more or less newly conquered ‘Greek’ lands in the South, which still applied Rhomaian written law. Of equal importance is the fact that his new title as

Emperor gained additional legitimation through legislative activity – which was seen as both a right and a duty of Christian emperors. The most famous part of this codification, Dušan’s Code, was also the most original in content, though by no means void of Rhomaian influences: some articles were based on earlier charters and (likely) customary law, some were original innovations, but some were transplanted from Rhomaian law, mostly the *Basilica*. The other two were transplanted directly from Rhomaian law. One was an abridged version of Matthew Blastares’ *Syntagma*, cut down to about a third of its original size through the removal of all rules on purely ecclesiastical subjects that temporal courts wouldn’t need, but also some ideological norms that proclaimed the supremacy of the Rhomaian Emperor in the (Orthodox) Christian world, as well as of the patriarch of Constantinople over local Orthodox churches, that did not suit the needs of the Serbian Empire. (An unabridged translation of the *Syntagma*, probably made in 1347–1348, also exists, but it was likely only used by the Church.) The final part was the so-called Law of (Emperor) Justinian, a brief compilation based mostly on the Rhomaian Farmer’s Law. The original of the Codification was not preserved, but 25 manuscripts from later periods exist, dating from the fourteenth to the eighteenth century.⁴

In addition to that, a number of cities on the Mediterranean coast, older than the country itself and with a mostly Catholic population, recognised the supreme power of Serbian monarchs and paid taxes to them, but they had a fairly broad internal autonomy, more prominent in some than others. They all passed their own statutes, all much more similar to the statutes of other Mediterranean communes (with strong influences from Venice and Dubrovnik (*Ragusa*), and the legacy of Roman law coming from Western Europe) than to mainland Serbian law, though some connections and similarities do exist.⁵ Only three were preserved: the statute of Kotor (*Catharo*), probably dating back to the beginning of the fourteenth century, printed in 1616 in Latin; the statute of Skadar (*Scutari*), passed during the Serbian Kingdom (up to 1346), most likely in the first half of the fourteenth century, preserved in later Italian translation; and the statute of Budva (*Budua*), passed under the Serbian Empire (1346–1371), likely during the reign of Dušan as Emperor (1346–1355), also preserved in later Italian translation.

Social structure of medieval Serbia

The society of medieval Serbia was divided into two main estates: the nobility (*vlastela*) and commoners (*sebri*), with further but less legally relevant subdivisions within each group. The nobility was subjected directly to the monarch (with no hierarchical subjection of lesser nobles to greater ones) and owed military service and land taxes to him, receiving in return land with serfs on it and a fairly broad economic, administrative and judicial immunity. In addition to the nobility, the clergy also constituted a privileged estate – though, of course, an individual cleric’s status differed depending on his exact position in the Church hierarchy – but it was individual churches and monasteries as moral persons who were large landowners on par with the nobility, usually with even more privileges. A ‘third estate’ of citizenry never emerged, likely because urban development was interrupted by the

Ottoman conquest. Littoral cities, as stated, had a high degree of autonomy, and they had *their own* divisions into nobility and commoners; the so called ‘Greek cities’ (conquered Rhomaian cities) had some privileges granted to them by charters; but the majority of towns and cities in mainland Serbia had no special legal status, though some categories of their population (e.g. Saxon miners) had privileges of their own.⁶

A hierarchy between the estates was also present in Serbian criminal law, at least from the Second Žiča Charter of King Stefan Nemanjić, ca. 1221–1224. This inequality usually meant that nobles were more often exempt from bodily punishments (which were considered shameful, even when no mutilation was involved), but faced heavier fines instead, due to their better economic standing. Some types of crimes were also related to one’s social position and could have been committed only by a certain estate – e.g. only a nobleman could commit treason against the monarch, while only a serf could unlawfully flee his master’s land.⁷ It must be noted, however, that prior to Dušan’s codification, bodily punishment was very rare, while the death penalty was not used (political cases notwithstanding): pecuniary punishment was the dominant and almost only form of punishment.⁸ Thus, older Serbian law, essentially, fined each estate for the same crime in accordance with the culprit’s standing. It is the combination of two principles of different origin – the Serbian estate inequality and the Rhomaian harsh bodily punishments – that led to a noticeably privileged position of the nobility in criminal law.

The position of women also varied depending on social class and on the part of country and sources of law in force, although it all did fall into the patriarchal confines of medieval Christianity. In mainland Serbia, the overall position of women was fairly good for medieval standards: most notably, they had full legal capacity even when married, and female relatives had the same share in inheritance as males (at least in noble families), possibly due to Rhomaian influence.⁹ Dušan’s codification seems to have overall confirmed and possibly improved this standing, contrary to Frader’s general remark that ‘laws elaborated by centralizing monarchs distinguished more carefully between the rights of men and women’, deepening already present gender inequality.¹⁰ Still, like elsewhere in Europe, women were subjected to the authority of the male head of family, more restricted in their sexual behavior than men, and excluded from official functions. In the littoral cities, akin to their counterparts in the Western Mediterranean, the position of women was somewhat worse overall and their legal capacity more restricted,¹¹ which supports a view recently expressed by Rubin¹² of women as ‘strangers’ in their own cities, subjected to the rule and interests of full citizens – men. In both cases, as elsewhere in medieval Europe, ‘law treated women’s inferior status on an ad hoc basis’,¹³ without defining it in general terms, which is perfectly consistent with the character of medieval law in general.

Presence of sex crimes in the sources

Dušan’s Codification covers various sex crimes rather thoroughly. The vast majority of its norms on this subject are contained in the Abbreviated Syntagma

(hereafter: AS),¹⁴ with only two articles (29–30) in the Law of Justinian and two more (93–94) in Dušan's Code. Obviously, the Rhomaian norms were considered by the legislators to be of sufficient quality and scope to cover all but a few cases, the latter being addressed in the Code.¹⁵ The Codification regulates rape, abduction of women for the purposes of marriage, fornication, adultery, bigamy, incest, male homosexuality and bestiality.

The statutes of the Mediterranean cities in Serbia contain far fewer provisions of this sort. Of sex-related crimes, the Statute of Kotor regulates only rape, the Statute of Skadar rape and prostitution, and that of Budva only prostitution. (Prostitution itself was legal, but some activities of prostitutes, e.g. solicitation, constituted crimes.) The other crimes were left to canon law, likely because they were seen as less threatening to the social order the state protected, and more as sins to be addressed by the Church.

This list of crimes might seem peculiar to a modern reader, since their nature differs: crimes such as rape or abduction are concerned with the repression of violence and one party's lack of consent, not sexuality as such – while fornication or sodomy (not to mention the regulation of *legal* prostitution) represent precisely the restrictions on consensual sexual relations imposed by the law. However, one shouldn't transpose modern views to a medieval society. While these crimes were not all grouped together in laws (since the Syntagma, which regulated most of them, was ordered alphabetically, and the other sources contain only a few norms each), they do reflect a medieval Orthodox view of the sinful nature of sexuality – even to the point when it turns to violence.¹⁶ Given the uneven coverage of most sex crimes in the sources and the fact of it being the staple violent sex crime (as well as the constraints on paper length), I shall focus only on the regulation of rape in detail. The other crimes will be covered briefly. For similar reasons, only temporal regulations, and not canons, will be analysed.

Sex crimes in the codification of Stefan Dušan

Violent sex crimes: rape and abduction

Rape is the one sex crime a modern person imagines to be illegal in every society, regardless of time and space: forcing someone to sexual intercourse seems to us as obviously wrong on an individual level and undesirable for society as a whole, as are murder or theft. While the first part of this assumption is correct, the second not as much: the specifics of how sexual assault is prohibited vary greatly across time and space. For example, most medieval laws do not regulate violent sexual acts other than rape (e.g. prohibited sexual acts), and the only prescribed form of rape is that with a male perpetrator and a female victim. Since even voluntary homosexual relations were prohibited, there was no point in separately proscribing homosexual rape. And the idea of a woman as rapist was alien to the medieval way of thinking.¹⁷

However, transposing our views of rape as the *worst* violent sex crime into the Middle Ages would be wrong. To a medieval Christian, there was a far more

heinous thing a man could do to a woman: he could abduct her and force her to marry him. (Truth be told, it is not that modern society considers such a crime to be less severe than rape, but rather that abductions are growing far less common.) Since Constantine, who first introduced severe punishments for abduction, these crimes have to be analysed jointly in order for either to be understood properly.

Constantine's crime of *raptus*, introduced in 320, was conceived as a crime against the family and paternal power first of all, prescribing the death penalty both for the abductor and the girl¹⁸ who allowed herself to be taken without her parents' consent, thus emphasising the parents' consent to marriage far more than a woman's consent to either marriage or sex.¹⁹ With occasional minor changes, this incrimination survived through the entire history of the Eastern Empire. The most significant rearranging and editing of regulations against it and other sex crimes took place in the *Ecloga*, from where it was transferred to the *Procheiros nomos* and *Eisagoge*, later the *Basilica*, and finally Blastares' Syntagma.²⁰

In the Syntagma, it is regulated by chapter A-13 (AS: A-12). According to imperial laws contained there, if the abduction was conducted through force of arms, the abductor was punished by death, while his helpers would be severely beaten, their hair cut and their noses severed – the last punishment, originating from the punishment for adultery in ancient Egypt, had by then become a staple for sex crimes.²¹ If the abductors were unarmed, the main perpetrator's hand would be cut off, while helpers would be beaten, shorn, and exiled. If a slave was among the helpers, he was condemned to death by burning. However, a slave who reported an abduction, or exposed a concealed one, would be freed. A slave who abducted or hid someone's mistress would be merely fined.

It is expressly stated that the penalties would be applied, and marriage prohibited, even if the woman was abducted with her own consent – in other words, if she eloped to marry her lover. If a girl's parents were to try forgiving the abductors or consenting to such a marriage, they were to be imprisoned. However, if the main abductor not only kidnapped, but also raped the girl, and she afterwards agreed to marry him, such a marriage would be allowed! Obviously, this was meant to provide the option of a legal and honourable marriage to a girl who might find her odds of marrying too low after the crime. Still, the property consequences show that the legislator saw this outcome as undesirable. Normally, the abductor's entire property would be confiscated and given to the abducted; however, if she consented to marry him, her property would be confiscated as well; the same went for her parents and others who consented to such a marriage. Most of these rules were already present in the *Zakonopravilo*. It is possible that marriage by abduction existed as a custom in Serbia, and that these rules were kept and meticulously reworked to fight that custom.²²

The Syntagma contains only one rather specific Rhomaian law against rape – the one regarding the rape of a virgin. This seeming narrowness was not unusual for the Rhomaian law of the period. Rape generally received less attention than abduction (for reasons outlined above), but also less than fornication and adultery, since every sexual act outside marriage was prohibited.²³ It could almost be said that it was considered to be merely a qualified form of those crimes: an unlicensed

sexual act committed, on top of other ills, without the woman's consent – an aggravating circumstance, to be sure, but apparently not one of the highest priority.

The aforementioned law was contained in chapter Г-30 of the Complete Syntagma (AS: Г-15), which, despite its title 'On those who rape virgins' ('*О ИЖЕ ЖЕНЫ ДѢВЦЕ ПОУДЕШТИХЪ*'), contained several regulations about fornication and concubinage, and only that single law against rape. After referring to the 66th rule of the Apostles, laid out earlier in the same chapter, which demands excommunication for the man who rapes a girl who is not engaged, and to the possibility of saving the girl's honour by marriage, the Syntagma proceeds to order:

НЕ ОУДО ВЪ ИЖЕ О ПОУЖДИ СОУДОУ СИЦЕ ПОВЕЛѢВАЕТЪ ЗАКОНЬ ГЛАВАЕТЪ СЕ, РЕЧЕ БО: ПОНОУДНВЫ ОТРОКОВНИЦУ И РАСТАНВЪ ТОУ, ДА ОУРѢЖЕТЪ СЕ ЕМУ НОСЪ И ДА ВЪДАЕТЪ ЕИ И ТРЕТИЮ ЧЕРТЬ ИМѢНІА СВОКРО.

'Yet the law of judging rape orders not this way, but says so: he who rapes a virgin and defiles her, let his nose be cut off and let him give her a third part of his property.'

It is not quite clear whether Blastares considered only the rape of a virgin relevant enough to be included in his compilation, or he found it appropriate for the punishment outlined in this law to be used in every case of rape. The high value that was placed on virginity in Slavic Orthodox tradition²⁴ seems to favour the first explanation, and so does systematic interpretation. Namely, another regulation concerning rape is to be found in the end of chapter M14 (AS: M3), concerning adultery:

И ОУДО МОУЖ ТОМНИМЪ КЪТЪ ПАКО ПРѢЛЮБОДѢ, ЖЕНА ЖЕ НЕ ОБВИНОУЕТЪ СЕ, КГДА БЕЗЪ ВОЛЕ И ПОНОУЖДЕН ЖНОУ, ТОУ РОУКОМ ОУДРЪЖИТЬ, АШТЕ И ТА СТЫДЕШТИ СЕ БЫВЪШЕК АБІЕ НЕ ВЪЗВѢСТИ МОУЖЕВИ СВОКМОУ.

'And the man is punished as an adulterer, while the woman is not accused, if without her will and raping her he held her (down) with his hand, even if she, being ashamed, does not report it to her husband.'

Thus, the only regulation in the Syntagma mentioning the rape of a married woman was one determining that victims of rape were free of charges for adultery – while the rapist was punished as an adulterer. While this may seem shocking to a modern reader, who would presume the first crime to be much more severe than the latter, the Rhomaian penalty for adultery was not much lighter. Adulterers were to be flogged, their hair cut, and their noses cut off. So, the main and harshest penalty – severing of the nose – was the same for adulterers and all rapists, and the rapist of a virgin was only additionally punished by the confiscation of a third of his property. As this was given to the victim, it was obviously meant to compensate for the girl's reduced chances for a good marriage after her defilement. Adultery was among the highest sexual transgressions, and equating other crimes with it was, in fact, meant to stress their gravity. As Levin points out, although referring to canonical sources, the term was used

as a pejorative label for sexual violations that technically were not adulterous. [. . .] The seriousness of a sin rather than its nature seemed to determine the category: rape and the defilement of a virgin were also ‘adultery’.²⁵

Dušan’s legislators obviously found the regulations in the Syntagma insufficient, because, Dušan’s Code contains a rule against rape in art. 53:

И кон властѣлннь оузме владыкоу по снаѣ, да моу се овѣ роуке отѣкоу, и носъ оуреже; ако ли себѣрь оузме по снаѣ владнкоу, да се овѣси; ако ли свою другоу оузмѣ по снаѣ, да моу се овѣ роуке отѣкоу, и носъ оуреже.²⁶

‘And if a nobleman takes a noblewoman by force, let both his hands be cut off and his nose be slit; if a commoner takes a noblewoman by force, let him be hanged; if he takes his own equal by force, let both his hands be cut off and his nose slit.’

Two things are immediately obvious from this norm: the inequality between estates, characteristic of earlier Serbian law, and very harsh punishments, introduced from Rhomanian law (generally, not as punishment for rape) to replace earlier fines. As seen in the Code, rape is obviously a very serious crime, punishable usually by mutilation when it happened within a single estate (which one might assume was the most frequent case), or even by death if a commoner raped a noblewoman.

But an important piece of the puzzle is missing: what happens if a nobleman rapes a common woman? (Dušan’s Code also contains a similar norm regarding murder, where the penalty depends on both the perpetrator’s and the victim’s status, but all combinations of estates are covered there. It might be worth noting that none of them merit the death penalty.) Since no court records have been preserved, various theories exist. Some believe it was not punishable at all, ‘which provides eloquent testimony of the hubris of the ruling class’,²⁷ to which one might add gender domination, since other crimes of noblemen against commoners were punishable. Other authors believe that the Code left this case to unknown customary law – maybe such a lord’s serfs were free to abandon his lands, like in some other countries?²⁸ Simply paying a fine would also suit the spirit of Serbian customary law: that way, the crime would be punishable, yet this combination of rapist and victim would be punished least severely. As some charters show (the earliest being King Milutin’s charter to the monastery of St. George in Skopje, 1300), rape was punishable by fines prior to Dušan’s Codification – though charters probably regulated only rape among commoners.²⁹

Still, Solovjev’s theory seems to be the most sound – that this case was omitted by the Code in order to be left to the general, and mildest regulation of the AS: the severing of the nose.³⁰ After all, had Dušan’s legislators not intended for the Syntagma’s norms on rape to be used, wouldn’t they have omitted them during the abbreviation, just as they did with so many others? And since all other possible rapist/victim combinations had been explicitly addressed by Dušan’s Code, the norm of Г-30 on rape could only be used in the remaining case – the rape of a commoner by a nobleman.

Illicit sex: adultery and fornication

In theory, it is easy to differentiate these two crimes: adultery is marital infidelity, while fornication is a sexual act between two unmarried individuals. However, a certain confusion between the two terms was widespread in Christian societies of both Eastern and Western Europe. Firstly, some deviations from the model frequently existed, e.g. a concubine's infidelity being classified as adultery,³¹ but a married man's intercourse with an unmarried woman as fornication. This model, possibly originating in the Old Testament definition of adultery as intercourse between individuals who could not legally marry (at a time when polygyny was allowed), obviously prescribed harsher standards of sexual behaviour for women than for men. Secondly, the terms were sometimes interchangeably used, reflecting either authors' confusion or a view of similar gravity of these crimes.³²

The Syntagma contains a large chapter, M-14, 'On adultery'; in the AS, it was 'very carefully reworked' and kept as M-3, but without all but two brief canonical rules.³³ Two laws regarding bigamy were extracted into M-4, 'On those who have two wives'.

As already stated, adulterers were punished by flogging, shameful cutting of hair and severing of the nose, while accomplices would also face the first two penalties, but would be exiled rather than maimed. The adulteress was to be sent to a monastery, from which her husband could take her back home within two years. Many rules in this chapter regulate the secondary consequences of adultery: the destiny of the adulteress' and her lover's property, the husband's right to kill the lover, his duty not to ignore his wife's adultery, as well as a number of procedural rules aimed to prevent baseless accusations. Two such rules can also be found in art. 29–30 of the Law of Justinian.³⁴

One of the rules on adultery (taken from the *Basilica*) bears mentioning: although his act is qualified as sinful, a man was not to be charged of adultery (or even fornication!) if he slept with his slave's wife or a married but debauched woman who shared the bed of many men. Those women, apparently – one by position and the other by choice – did not satisfy Christian standards of moral conduct, and thus had no honour to be shamed by such intercourse. Such worsening of a woman's status through promiscuity is a common double standard of medieval societies.³⁵

As for fornication, the Syntagma contains three chapters (Π-15–17) that concern it, but the rules within them are those of canon law, and have therefore been omitted in the AS. Only one of those rules, regarding clerics, has been kept and turned into chapter Π-2. Additionally, the aforementioned chapter Γ-30 (AS: Γ-15) contains a rule against fornication with a willing virgin without her parents' knowledge. The perpetrator should marry the girl if her parents agree. If they don't, he is punished according to status: he must pay the girl a liter of gold if he is rich, half of his property if he is poor, or be beaten, shorn and exiled if completely destitute. The girl's own consent to marriage is tacitly presumed,³⁶ again reflecting a patriarchal spirit of medieval law, where a father's and suitor's agreement took precedence over a woman's own choice in marriage.

Finally, the Syntagma contained an even more specific rule regarding a man's fornication with his underage betrothed in chapter M-13, 'On betrothal'. In the AS, it was moved to Г-16, thus right after the aforementioned general case of fornication with a virgin. This shows, as Solovjev has pointed out, 'that the redactors of the AS have attempted to correct Vlastar's errors' and create a more logical system.³⁷ If a man were to deflower his betrothed before her 13 years of age, her parents could cancel the betrothal and receive a third of his property (the same amount as for rape); if they didn't want to cancel, he still had to refrain from further intercourse until marriage. Given the girl's age and the punishment in case the marriage is cancelled, some modern authors refer to this crime as statutory rape. It does seem that the legislator's intent was leaning in this direction – though not completely, since marriage is not discouraged.³⁸

These rules were for the most part sufficient for Serbian needs, but Dušan's Code, in art. 54 (right after the norm concerning rape) regulates a very specific form of illicit sex: 'Ако ли владыка влоудъ оучини съ своимъ чловѣкомъ, да нмъ се обѣла роукѣ отѣкоу и носъ оуреже.' ('And if a noblewoman commits fornication with her man, let the hands of both be cut off and their noses slit'.)

The phrase 'her man' signifies a commoner (*sebar*), a servant or slave, most likely subjected to the noblewoman's husband or father, or to her directly if she was a widow. Although the word 'fornication' is used, it seems likely that this rule covers both fornication and adultery.³⁹ The gender structure of the norm is clear: it is not merely the sexual act that is punished, but the social impropriety of a commoner establishing dominance (implicit in the gender construction of the sexual act) over a member of the nobility and thus insulting both the honour and the dignity (of the men) of the entire estate. As Solovjev has noted, this rule is a compound of two similar norms from the Procheiron (regarding a married lady's and a widow's intercourse with her slave), already introduced into Serbian law in the *Zakonopravilo*, but the penalties have been changed.⁴⁰ In the *Zakonopravilo*, the married woman committing adultery with a slave would be beaten, shorn and her nose cut off, after which she would be exiled from her city, with her property confiscated; the slave was condemned to death. In the case of a widow, the penalties were milder: both were merely beaten and shorn, while the slave was to be sold, with the income going to the treasury. The Code, however, equalises the punishments and makes them much harsher for all cases except the adulterous slave: it seems that the Rhomaian rules were deemed insufficiently severe for such an insult to the honour of the nobility. As Levin points out, nothing in these regulations allows for the possibility that the subjected man might have been forced into such a relationship by his lady, although sources do make such allowances for male masters and female slaves.⁴¹ Thus, while the female and male accomplices in this crime suffer equal punishment, the norm still contains two forms of gender discrimination: one in not punishing the reverse case (a nobleman's liaison with a female servant), and the other in presuming that the man is always involved in such an affair of his own free will, regardless of the obvious difference in power in this concrete case.

'Unnatural' sex

The Syntagma also contained penalties for bestiality in chapter A-5 (AS: A-7), male homosexual intercourse in A-14 (AS: A-13) and incest in Γ-9 (AS: Γ-6). Bestiality, defined as intercourse with 'wordless' animals, was punishable by castration. Homosexual intercourse was punished by death (although canonical rules are much milder), except for the passive participant if he was under twelve. Again, we might be tempted to view this as punishment for homosexual *rape* of children, which the act obviously was if committed with a boy so young – but, as already stated, (male) homosexual relations were considered so abhorrent in themselves that the element of force brought no further repercussions – indeed, the punishment was already the harshest one for voluntary intercourse, and the boy merely escaped punishment due to being too young to have consented. Implicitly, thus, an adult man raped by another man could also be condemned to death.

The punishment for incest varied greatly depending on the type and degree of relation, all in addition to spiritual penalties. Intercourse between parent and child or siblings was punishable by death. For incest with more distant relatives, including affines – since it was considered that marriage made two persons one, and thus a person was considered related to their spouse's blood relatives,⁴² the guilty parties were to be beaten and their noses cut; it was similar for *kumovi* (godparents or marriage witnesses, who were also considered spiritual relatives). Double relations between in-laws (e.g. two brothers with two sisters, or with a mother and daughter) merited only beating and separation.

Nothing was added for any of these crimes in Dušan's code, possibly because they were not too frequent in practice. The early thirteenth century Žiča charter does forbid marriage with one's *svastika* (the term can be interpreted narrowly as a sister-in-law, indicating levirate, or broadly to mean any female affinal relative), which does indicate that this uncanonical practice was present in Serbian society,⁴³ but it might have become rare by Dušan's time.

Sex crimes in the statutes of Mediterranean communes under Serbian rule

Kotor

Rape is the only sex crime regulated by the Statute of Kotor, in its chapter C, 'De violentiis mulierum' ('Of violence against women'), one of the longest ones in this act.⁴⁴ Penalties vary depending on the victim's status, but the general principle remains the same in all cases, and the differences are mostly quantitative. The rapist could avoid punishment by marrying the victim, if both were unmarried and if she and her family or, in the case of an *ancilla* (slave/serving girl), she and her master, consented. The only 'penalty' for the rapist in such a case would be a lack of dowry, which was otherwise mandatory and highly important in practice.⁴⁵ If no marriage took place, the standard penalty was a fine: fifty hyperpyra for the rape of an *ancilla* (one hundred if she was unemployed), five hundred for a

woman of middle station, and one thousand for a noblewoman. If the perpetrator could not or would not pay the fine, he was to be imprisoned for three months. If he still did not pay, he would face a maiming corporeal punishment: the loss of his little finger if the victim was a serving girl, his thumb and little finger if she was a middle-class citizen, and his whole hand if she was a noblewoman. In the case of attempted rape, according to a 1418 addition, the sum was reduced to one fourth, and there was no corporal punishment.

The rape of married women (where the rapist could not avoid punishment through marriage) and other similar cases were to be subjected to ‘similar penalties (*‘similibus penis’*) – obviously left to the discretion of judges – naturally, all men. It is noteworthy that the same norm implies that only *‘mulieres honestas’*, honest women, could be the victims of rape: *‘& similibus penis subiaceant, qui sforzauerint, aut violauerint maritatas puellas, aut alias mulieres honestas’* (‘and to similar penalties shall be subjected those who rape or violate married girls, or other honest women’). That would exclude prostitutes and, likely, women who led a promiscuous life – as we can see from similar regulations in other statutes. Beyond a doubt, a shadow cast on the victim’s morality could have seriously compromised the likelihood of the defendant being convicted, even when other evidence was strong.⁴⁶

A similar ‘pay or suffer’ principle was also in force in other Mediterranean communes. In Venice, a rapist had to pay a fine equal to the victim’s dowry (determined by the judges); if he failed to, after eight days’ imprisonment, both his eyes would be taken out – though the latter seems not to have happened frequently in practice.⁴⁷ A very similar penalty was prescribed in Ragusa and a number of other communes on the Adriatic coast, and could also usually be avoided through marriage.⁴⁸

Skadar

The only criminal law chapters related to sex in the Statute of Scutari concern prostitution and rape. Prostitution was not a criminal activity in itself, but the behaviour of prostitutes was subject to special restrictions through chapter LXXXVII, ‘De meretrice’ (‘Of prostitutes’).⁴⁹ They were not allowed to wear veils on their heads, as was the custom in Skadar, nor to stay or live near gentlewomen, under the threat of a penalty of eight hyperpyra. So, they could do their business freely, as long as they dressed in a way that clearly marked them as prostitutes⁵⁰ and did not offend the sensibilities of noblewomen by approaching them too closely. If they failed to conform, they would merely be fined, and the amount indicates that this was no more than a misdemeanour. But if a prostitute committed another crime or also acted as a panderer, she was to be expelled from the city – with a fine (again eight hyperpyra) and flogging ‘through the entire land’ (*‘per tota la terra’*), if she didn’t leave willingly within three days.

Perhaps the most interesting thing to note is how prostitutes were defined. The chapter begins with the words: ‘Ordinemo che chadauna meretrice chi fosse per prova trovata per dui over per tre homeni . . .’ (‘We order that any prostitute for whom it is proven that she has had relations with two or three men . . .’) It seems

that any woman who had relations with multiple men was considered a prostitute, regardless of whether she charged them for sex – an attitude with roots tracing back to Roman law,⁵¹ and particularly harsh in combination with the family's possibility to disinherit a prostitute (ch. CLXXI).

The Statute contains two brief chapters regarding rape. The first, chapter CCI, 'De sforzar femena' ('On the rape of women'), prescribes:

Ordinemo chi zaschaduno homo sforzassi alcuna bona femena non maritata per forza e lo homo non fosse uxorato, volemo che la toia per mulier per legitimo matrimonio; e si la femena fossi maritata e l'homo chi la sforza fossi uxorato, volemo chi paghi pena perperi L, la mità a lo conte e la mità a la femena, e questo dicemo se la femena provassi per bona prova.

'We order that if any man rapes a good woman who is not married, and the man is unmarried himself, we will it that he takes her as wife in legitimate marriage; and if the woman is married and the man who has raped her is married, we will it that he pays a fine of fifty hyperpyra, of which half goes to the *Conte* and half to the woman, and of the aforesaid the woman must present good proof.'

Some basic principles are the same as those in the Statute of Kotor (likely influenced by it, or by a common source), but the norm is overall much simpler. The phrasing implies that neither the rapist nor the victim had any choice in whether they wished to be married, if they were both single – which one might argue amounted to punishing the victim as well – though it is possible that the same principle used in Kotor was implicitly present, and that if the woman (or her family) refused marriage with the rapist, he would have to pay the fine. There was no grading of the fine according to the victim's status, and the norm is silent on what would happen if he was unable or unwilling to pay. Obviously, there would be no maiming of the sort present in Kotor, and some general rule (unknown to us, maybe customary) governing insolvent criminals would be applied. Overall, both the amount owed and the absence of corporal punishment lead us to believe that the legislator of Skadar was more lenient towards rape.

Again, we see that the victim of rape could only be a *bona femena*. Nevenka Bogojević-Gluščević has already pointed out that it likely means a woman who was not classified as a prostitute according to chapter LXXXVII.⁵² Further proof can be found in chapter CCLV, which prescribes, among other things, a penalty of eight hyperpyra for anyone who calls a *bona femena* a number of insulting names, including a whore or a panderer.

The subsequent chapter CCII, 'De ancila sforzata' ('Of a raped serving-girl'), contains drastically different consequences:

Ordinemo algun homo sforzassi ancilla de algun homo over de àlguna femena e l'ancilla morisse in partu, volemo chi quello chi la sforzasse sia tenuto de dar a lo parone de la ancilla una altra ancilla, e lo fiulo over la fiola che fecissi la ancilla che sia serva over servo de lu parone de la dicta ancilla.

‘We order that if any man rapes a serving girl of any man or any woman and the serving girl dies in childbirth, we will it that the one who raped her must give to the serving girl’s master another serving girl, and the son or the daughter given birth to by the serving girl shall be servants of the said serving girl’s master.’

As we can see, although these two norms are logically grouped according to the underlying legal facts – the rape of a woman – the legal questions raised in these two cases have practically nothing in common. Two drastically different interpretations are possible. Firstly, chapter CCI could be prescribing the penalty for the rape of *any* woman, including an *ancilla* – after all, the same fifty hyperpyra were paid in Kotor precisely for the rape of a serving girl, and the fines for women of higher status were drastically higher. In that case, chapter CCII would be only an addition, prescribing the pecuniary consequences for the *ancilla*’s master in the case of the unfortunate girl’s death or pregnancy. On the other hand, chapter CCI could have applied only to free women, with the rape of an *ancilla* being unpunishable, and having only pecuniary consequences.⁵³ The latter interpretation seems more likely, since an *ancilla* probably would not qualify as a *bona femena*, as servant and slave girls were commonly considered sexually available to their masters. It is also hard to imagine the law of aristocratic Scutari forcing a rapist of higher social standing to marry a simple serving girl. (While this possibility was foreseen in Kotor, marriage was not mandatory there even if both were single.) The provision about a child conceived during the rape only strengthens this conclusion: had the rapist married the victim, he likely would have been given at least an opportunity of taking his child into his home.

Budva

The Statute of Budua contains relatively few provisions pertaining to criminal law. One of the reasons for that could be that the most important crimes were reserved to be judged by the Serbian Emperor, as regulated in chapter III: ‘*de infedeltade, de homicidio, de servo, de serva et de cavallo robbado o morto*’ (‘of treason, of homicide, of a serving man, a serving woman and of a stolen or dead horse’).⁵⁴ On the other hand, this list is not particularly long, and a very similar regulation existed in chapter II of the Statute of Skadar, which did not prevent it from regulating most crimes one would expect. Another possibility is that a number of crimes was deleted from the Statute at the time of its translation to Italian, when Budva came under Venetian rule in the 15th century, since the jurisdiction for those crimes was transferred to Venetian organs, so they would be tried according to Venetian, not Budvan, law.⁵⁵

Whatever the reason, the fact remains that some crimes that one would expect to be regulated in any society of Budva’s level of development are absent from the Statute. However, the Statute of Budva is very similar to that of Skadar in a large number of provisions, and is considered to have been modelled after it.⁵⁶ The only extant regulation relevant to our current research is chapter LXVI, ‘*Delle puttane*’ (‘Of whores’). The provision is almost identical to the one in the Statute of Skadar

in its definition of the prostitute, activities forbidden to her and the penalties for them, with only two exceptions. Firstly, the prostitute was forbidden to live not only near noblewomen, but also nuns. Secondly, if she was found guilty of solicitation or any other crime, she would be fined (although only four hyperpyra) and flogged during her expulsion of the city, without allowing her to leave of her own accord and with more dignity.

Obviously, these differences are minor and reflect only a slight adjustment or improvement of the same law – regardless whether the Statute of Budva copied the one of Skadar or both wrote their rules according to a third model. Naturally, this similarity is far from sufficient grounds for assuming that the penalty for rape prior to Venetian rule was also the same as in Scutari – but the possibility does exist. Given the similarity between Kotor and Skadar in their treatment of rape, one can at least assume that Budva, too, gave the rapist the possibility to marry his victim in order to avoid paying a fine – but, of course, details could have differed from those in the other two cities.

Comparison and influences

Prescribed crimes

The catalogue of sex crimes in the Codification of Dušan is far wider than in any of the statutes. A greater part of that difference can be ascribed to different approaches in codification. The statutes are not concerned with non-violent crimes (adultery, fornication etc.), because they leave them to canon law and to the Church. The Serbian Empire, on the other hand, followed the Rhomaian principle of symphony of state and Church, leading it to regulate such matters mostly in the same way the Eastern Empire did. One more crime was absent from the statutes for a more practical reason: abduction of women, as it was highly unlikely to take place in an urban environment.

On the other hand, Dušan's Codification contains no rules on prostitution – either regulating or forbidding it. Furthermore, there are practically no textual sources that mention prostitution in mainland Serbia. It seems highly unlikely that it didn't exist, but one could assume that it was far less developed, due to a primarily rural environment.⁵⁷ In such circumstances, either the rules on fornication were deemed sufficient, or the activity of such prostitutes, few in numbers and likely not organised in brothels, was tolerated. Still, the rule of the AS decriminalising adultery with promiscuous women might mean a similar treatment in some cases.

Regulation of rape

Nevenka Bogojević-Glušćević has stated that the regulation of rape in the statutes of Cathari and Scutari was influenced by Byzantine law both directly (mostly through the *Ecloga*) and indirectly, through Dušan's Code, though modified to reflect the needs of the communes in question.⁵⁸ While essentially correct, this conclusion is very general: we'll try to offer a more detailed one.

When one looks at the regulation of rape in these sources, a key difference is readily obvious. The statutes attempt to mitigate both the shame done to the victim as well as the punishment that the rapist should receive – by making them marry. The statute of Skadar might have even ignored the woman's consent in this matter entirely, but even in Kotor, where consent was required, a woman might have felt the social and economic pressure, not to mention that of her family (whose consent was also needed) to accept the marriage. On the other hand, Dušan's Codification does no such thing: even in the single case of abduction where marriage is allowed, it is clearly discouraged. This difference reflects a fundamentally different approach. In the statutes, apparently, rape was not viewed as too severe a crime, and maintaining peace in the commune and saving the woman's honour (constructed primarily through a male perspective of the importance of sexual chastity) was likely seen as more important than punishing the culprit. This probably reflects the influence of Western Mediterranean cities, such as Venice.⁵⁹ In mainland Serbia, however, rape was seen as a serious crime to be punished severely, and urging for marriage between a rapist and his victim was likely perceived as contrary to the nature of Christian marriage. While the woman's welfare might not have been the primary motive in this regulation either, the outcome is more favourable for the victim.

Despite the differences, there indeed are two key similarities between these regulations: the punishment being influenced by one's status (hardly unusual for the period) and (at least in Serbia and in Kotor) the presence of severe, maiming corporal punishments, which could be said to serve a purpose of general prevention and that of marking the offender. However, there are more subtle differences within those categories. In the statutes, just like in Rhomaian law, it is only the victim's status that affects the severity of the punishment; in Serbian law, the offender's status also plays a role. While both Serbian law and the Statute of Kotor contain maiming punishments, both the type and the severity are different. The severing of fingers or a whole hand in Kotor might have been a milder form of the severing of both hands in Dušan's Code – if, indeed, the Code predated the Statute – but it also could have been an adaptation of another city's statute, maybe that of Dubrovnik. But the reverse is even more possible: if the Kotoran norm was older (which is more likely), it could have inspired Stefan Dušan to include a similar, but harsher Rhomaian penalty into his Code.

Conclusion

The regulation of sex crimes in both mainland Serbia and the communes under its rule, beyond a doubt, leaned on Roman and Rhomaian law. But other factors influenced it as well: religion, dominant legal culture, physical and social circumstances of life. In the Orthodox Serbian Empire, the Rhomaian influence was stronger, leading to a direct reception of many norms, including those for non-violent sex crimes. The general penal policy was fairly strict. The additions of the Serbian legislator could be said to follow the same spirit, but they make the penalties even harsher, particularly for rape, and add an element of social

stratification. In the cities on the Adriatic, the Catholic legal culture led to the non-violent crimes being left to canon law. Rape was seen as less severe, and marriage between the rapist and victim was seen as a peaceful solution preferable to punishment. Due to the differences between a mostly rural and urban environment, abduction of women was regulated in detail in Serbia, but omitted in the statutes; on the other hand, prostitution was widespread enough in the communes to warrant legal regulation, while Serbian laws are silent.

As for direct mutual influence between the statutes and Dušan's Codification, it cannot be proven at this point. Neither estate inequality nor corporal punishments are sufficiently specific to be proof of legal transplants, and the variations further point to different circumstances and goals of the legislators. Still, it cannot be ruled out, either – and is particularly possible regarding the severing of fingers or a hand in the Statute of Kotor, or both hands for some cases of rape in Dušan's Code. The question surely merits further research.

Notes

- 1 As the inhabitants of the Eastern Roman Empire referred to themselves as 'Rhomaioi' (Greek for 'Romans'), I believe that scholars should make an effort to dethrone the long-entrenched misnomer 'Byzantium', which was very rarely used during the country's existence and which has since acquired a negative connotation in colloquial speech.
- 2 A phototypical edition of the Ilovica manuscript was published by Petrović 1991, and a translation of its first half by Petrović and Štavljanin-Đorđević 2005; Gardović 2019 published a full translation of the Sarajevo manuscript.
- 3 Mirković 2017, pp. 24–25.
- 4 Solovjev 1928, pp. 16–93; 1980, pp. 3–163; Nedeljković 1975; Bogdanović 2000.
- 5 More in Bujuklić 1999; Ćirković 2000, pp. 343–348; Dinić 2003.
- 6 Taranovski 1996, pp. 35–156; Bujuklić 1999; Šarkić 2010a, 2010b, 2010c, 2011a, 2011b; Mirković 2017, pp. 37–46.
- 7 Taranovski 1996, pp. 371–374; Kršljanin 2012, 2019, pp. 424–440.
- 8 Taranovski 1996, pp. 414–418; Mirković 2017, pp. 62–63.
- 9 Šarkić 2001.
- 10 Frader 2004, p. 34.
- 11 Blehova Čelebić 2002, pp. 315–330.
- 12 Rubin 2020, pp. 71–90.
- 13 Kelleher 2013, p. 134.
- 14 Text of the Complete Syntagma used according to Novaković 1907; a translation to modern Serbian is available in Subotin-Golubović 2013. For the AS, see Флоринский 1888. The Greek original is available in *Πάλλη* and *Ποτλή* 1859, but only the Slavic translation will be used here, as only it was in legal force in Serbia.
- 15 Kelleher 2013, p. 134.
- 16 See Levin 1989, pp. 36–69, 212–213.
- 17 For rare examples of the opposite, see Brundage 1987a, pp. 396, 570.
- 18 In this and similar contexts, I use 'girl' to signify an unmarried woman – usually young, given the average marrying age in the Middle Ages.
- 19 *Codex Theodosianus*, 9:24–25 in Pharr 1952, pp. 244–246. For more details see Nguyen 2006, pp. 104–110. The woman was mostly absolved in Justinian's time: *Ibidem*, pp. 110–111; Haase 1994, pp. 465–468. For a broader context, see Brundage 1987a, 107 *et passim*.

- 20 Laiou 1993, pp. 117–132; Schmink, pp. 64–67.
- 21 Solovjev 1935; Reynolds 1914, p. 22.
- 22 Marković 2008, pp. 244–247.
- 23 Solovjev 1928, 181.
- 24 Levin 1989, pp. 59–69.
- 25 Levin 1989, p. 186.
- 26 The main editions used for the text of Dušan's Code are Novaković 1898, based on the Prizren manuscript, and Bubalo (2010), based on the Atos manuscript; English translation based on Burr 1949, with minor modifications. Some authors, e.g. Dinić-Knežević 1974, pp. XV–XVI, 126, believed art. 53 regulated abduction, not rape.
- 27 Jevtić and Popović 2003, p. 64.
- 28 Taranovski 1996, pp. 447–448; Mirković 2017, 68–69.
- 29 Mošin, Ćirković and Sindik 2011, p. 326.
- 30 Solovjev's 1928, pp. 182–183, 1980, p. 218.
- 31 This is present in both Western European canon law and Rhomaian sources. Serbian law did not recognise the category of concubinage.
- 32 Laiou 1993, pp. 114–120; Brundage 1987a, pp. 103–105; Levin 1989, pp. 179–181.
- 33 Solovjev 1928, pp. 184–185.
- 34 Text of the Law available in Solovjev 1928, pp. 236–240 and Marković 2007.
- 35 e.g. Brundage 1987a, pp. 464–465.
- 36 Laiou 1993, pp. 120–121.
- 37 Solovjev 1928, p. 183.
- 38 Cf. Laiou 1993, pp. 167–168; Levin 1989, pp. 225–226.
- 39 Cf. Solovjev 1980, p. 218.
- 40 Solovjev 1928, pp. 183–184.
- 41 Levin 1989, pp. 230–231.
- 42 Levin 1989, pp. 144–148.
- 43 Kršljanin 2019, pp. 440–443.
- 44 Edition used: Milošević, Ćirković and Danilović 2009.
- 45 Blehova Čelebić 2002, pp. 41–72.
- 46 Cf. Lansing 2013, Kelleher 2013, pp. 139–140.
- 47 Ruggiero 1978, p. 246.
- 48 Šoljić, Šundrica and Veselić, pp. 328–331; Bogojević-Gluščević 2018, pp. 68–69.
- 49 Edition used: Nadin 2002, for a Serbian translation, albeit one with mistakes, see Bogojević-Gluščević 2016.
- 50 A practice well-established across the Mediterranean – see Brundage 1987b.
- 51 Brundage 1987a, pp. 45–46 *et passim*.
- 52 Nevenka Bogojević-Gluščević 2018, p. 64.
- 53 Bogojević-Gluščević 2018, pp. 62–63, seems to presume this latter option. However, she also points out that chapter II of the Statute delegated some types of cases to the jurisdiction of the Serbian Emperor, and that those pertaining to a serving man or woman ('*de servo et de ancilla*') were among them, which might mean that the Statute simply did not regulate an *ancilla*'s rape, as it wasn't to be tried in the commune. This interpretation seems unlikely: the cases '*de servo et de ancilla*' are more likely to concern escaped slaves, since such a case was also reserved by art. 103 of Dušan's Code.
- 54 Edition used: Luketić and Bujuklić 1988. Thanks to Il Akkad from the University of Belgrade Faculty of Philosophy for his help with Latin and Italian texts.
- 55 Bujuklić 1988, p. 249.
- 56 Ortalli 2002, pp. 12–13.
- 57 Fostikov, p. 365.
- 58 Bogojević-Gluščević 2018, pp. 73–77.
- 59 Cf. Ruggiero 1985, pp. 93–96.

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7 Lascivious crimes and legitimate proofs

Women and the juridical transformation of Norman and Staufen Sicily

Philippa Byrne

Sicily in transition, Constance in eclipse

In the early 1190s, Norman Sicily went up in smoke. Both the island of Sicily and Southern Italy were engulfed in a destructive conflict which brought a decisive end to the Norman line which had ruled in the region since the later eleventh century. The last recognised Hauteville-Norman ruler, William II, had died in 1189 with no children of his own. William's designated heir was his aunt, Constance, who had, through careful diplomatic contrivance, been married to Henry, son of Frederick Barbarossa, in 1185.¹ Constance's claim was contested by Tancred, Count of Lecce, who was descended from Roger II of Sicily (r.1130–1154) through an illegitimate line. Tancred, backed by powerful supporters within Sicily, claimed the throne, igniting several years of violent struggle between his followers and those of Constance and Henry, now established as Henry VI, Holy Roman Emperor. Tancred exerted himself to establish his royal authority, issuing grants and privileges in the manner of previous Norman kings, attempting to establish loyalty to his person and dynasty, and continuity with the rule of William II.² But this was undermined both by the determination of Henry to take the kingdom, and by Tancred's own death in 1194. After several years of reversals and rapidly-shifting allegiances across the towns of Sicily and southern Italy, the kingdom was now in the hands of Staufen rulers.³

For Henry, military success gave rise to an intellectual and ideological problem. Rulers required legitimation. How Henry came into the *right* to Sicily was a question being discussed in court circles in Palermo and more widely across southern Italy in the mid-1190s. This was not, of course, the first time that German emperors had laid claim to Sicily – it had long been considered a natural part of their imperial possessions. But it was the first time a German emperor had been faced with the practical challenge of ruling Sicily. Frederick Barbarossa, Henry's father, had attempted to make incursions into the Norman kingdom, even making an alliance with Byzantium in the hope of removing the Norman kings.⁴ For most of the twelfth century, the reach of German emperors in southern Italy had exceeded their grasp. By the 1190s, the situation was different.

Sicilian scholars (that is to say, those who had not been imported with the new regime, but who had previously served the Norman courts of the *regno*) were

now pressed to provide an account of how a Hauteville dynasty had become a Staufen one. Their answer focused not on Henry, but on Constance. This justification for Staufen rule began with the story of an injury done to Constance – the last surviving legitimate child of Roger II, great king of Sicily, and the mother of the future Frederick II. Constance was the rightful inheritor of the kingdom; her crown had been usurped by the treacherous Tancred, who in turn had captured the queen, subjected her to public ridicule and ill-treatment.⁵ Tancred's treatment of Constance had demonstrated his unfitness to rule, while she was an imperial ruler exhibiting *patientia* even in her suffering, and through such behaviour she had won the admiration of virtuous Sicilian subjects. Following this line of argument, Henry VI's conquest was no more than the restoration of the proper rights of the crown to Constance, and repayment of the violence done to her. Constance was possessed of the same *maiestas* as her father Roger, while Tancred was hideously un-regal in his appearance and had some suspiciously non-Christian habits.⁶ This was the justification was produced in Palermo in the mid-1190s, and a line of thinking which is evident in works like Peter of Eboli's *Liber ad honorem Augusti*. Courtiers and scholars formerly belonging to the Norman court attempted to adapt their literary and political productions to a new reality.

This line of argument, however, did not catch on, or at least it did not last. It competed with, and was replaced by, a markedly more 'imperial' explanation, one which seems to have been rather more germane to Henry VI. This explanation – more closely associated with German authors – did not emphasise the particular descent of the crown through a particular woman, but rather the general right of the Roman emperor to claim the kingdom of Sicily, as had been advanced in centuries before. On this argument, the land of Sicily was a longstanding imperial possession now reclaimed. It was one piece in a greater and ever-expanding collection of territories. This narrative sidelined the claim of Constance and her dynastic Norman connections. Indeed, the tone of German sources throughout the 1190s became slowly more hostile towards her, culminating in suggestions that the queen's hand might be seen in a developing conspiracy against Henry.⁷

Here we have two contrasting political 'theories' justifying the same conquest and the same transition from Norman to Staufen rule. I am not seeking to suggest that this conquest should be understood as the eclipse of women in politics, or the beginning of a new, harsher attitude to queenship in Sicily. Rather, the way in which the role of Constance in the claim to Sicily slowly fell into eclipse allows us to perceive one way in which Sicilian political culture was being transformed, and how Staufen Sicily was distinctively different to the Norman world which preceded it.⁸ The rest of this paper examines that transition from Norman to Staufen kingdom through legal evidence, and, most particularly, through legislation addressing the protection, behaviour, and crimes of women.

The evidence for the operation of law in the Norman kingdom of Sicily, and in the Staufen kingdom before Frederick II is, not to put too fine a point on it, patchy at best. Some cases are preserved for us through notarial documents and registers.⁹ One crucial limitation, however, is that we are much better informed about the civic centres of southern Italy than the island of Sicily itself. When it comes to the

ideas and assumptions behind law – what we might call Sicilian jurisprudence – there is still much that remains to be said. This chapter is intended to suggest ways of examining those ideas and assumptions. It addresses how women were imagined and categorised by jurists, rather than the experience of women under the law. In that respect, its limitations should be clear. It is an examination of legal terminology and legal frames, rather than of experience. It makes no claims to being the last word on the subject, only to open (as far as my own research permits) this topic as one for discussion. I further confine myself to a discussion of royal enactments, rather than customary law in the kingdom, which continued to exert significant influence in local urban disputes.¹⁰ My focus is the two most important (and substantial) legal documents of that period: the enactments of Roger II, known as the *Assizes of Ariano*, and Frederick II's *Liber Augustalis* or the *Constitutions of Melfi*. This also means that before we can consider the treatment and representation of women in these codes, we must first consider some important technical matters of legal and textual traditions.

The work known as the 'Assizes' has a complex history, and I summarise it here only briefly and crudely. The text survives in two manuscript copies; one now in the Vatican, and another slightly later copy from Montecassino. These are broadly similar texts, although the laws in the Cassinese manuscript are sometimes shorter, and arranged in a slightly different order. The text I follow here is that of the Vatican manuscript. These 'assizes' were not a single code pronounced at a particular assembly at Ariano (as was once supposed), but represent edicts given at various points during the later years of Roger's reign. They represent a significant sample of royal law handed down in Rogerian Sicily, though not necessarily all of it. There dating of the Vatican manuscript has been the subject of considerable debate, most particularly over whether it was produced and compiled while Roger II was still living.¹¹ Kenneth Pennington has argued – convincingly, to my mind – that the Vatican manuscript was likely assembled in the 1140s or early 1150s. By contrast, Frederick's *Constitutions* – a much larger work – are rather more straightforward in their textual history. Chroniclers provide us with a clear chronology and the historical narrative around their creation. Issued in 1231 at Melfi in southern Italy, they represent Frederick's continuing struggle to assert his royal rights over the kingdom. Both Roger's and Frederick's texts owe a significant debt to Roman law; both were compiled by trained jurists. Speaking in the barest, plainest terms, Roger's laws obviously represent an earlier model of legal thought; while Frederick's code is considerably longer and more 'systematic'.

Frederick's *Constitutions* re-issue and ostensibly endorse certain edicts of Roger, as well as a few laws of the two later Norman kings, William I and William II, though the text fails to distinguish between the two Williams. Indeed, Ortensio Zecchino has argued that Frederick's constitutions probably contain more laws of Roger than we are able to recognise, other than those which have been preserved in the two surviving Cassinese and Vatican manuscripts.¹² This claim of continuity in the *Constitutions* is evident from the proemium, in which Frederick (or a jurist writing in the emperor's voice) presents his action of codification as both a means of bringing peace to an unsettled land, and an act of preservation of the

laws of previous kings.¹³ Indeed, Ménager argued that there was an even more direct connection: Frederick II's justiciars had sight of a collection from Montecasino, and from this they reconstituted much Rogerian law.¹⁴ There can be no doubt that Frederick's compilers had access to some Norman collections and did not rely entirely on local memory. Moreover, the text of the *Constitutions* explicitly identifies whether a law was given by Frederick or an earlier Norman king. Norman rulers are identified as 'rex', while Frederick is 'imperator' or 'augustus'. 'New' laws – those given by Frederick himself – fill the majority of the code, but even these contain asides which assert that the emperor's new laws only follow the principles 'established by the divine king Roger' (*a divo rege Rogerio prestitute*, III.85), or are written 'according to the statutes of our grandfather of divine memory, King Roger' (*iuxta dive memorie regis Rogerii, avi nostri*, III.84).¹⁵

That claim of continuity with the twelfth-century Norman rulers of Sicily was an idea Frederick employed more generally in his rulership, not merely in law.¹⁶ Though Roger II's reputation for virtue in twelfth- and thirteenth-century Europe was decidedly mixed, he represented an undeniably authoritative model of governance in the Sicilian kingdom.¹⁷ Given the early thirteenth century had been a time of significant disruption in the *regno*, there were obvious reasons for seeking out a stable precedent in the twelfth. More generally, of course, Frederick's engagement with the Norman past represented a common technique of medieval rulership: thirteenth-century Latin thought found much *auctoritas* in precedent and models esteemed by time.¹⁸

The prologue to the *Constitutions* explained that his laws followed the precedent of Sicily's earlier rulers (by which he meant the Normans), and that the *Constitutions* preserved those old laws and gave them new force; that Frederick's jurists continued the spirit of Norman legislation. Historians have, more or less, taken Frederick at his word. David Abulafia, for instance, described the *Constitutions* as 'Norman government restored'.¹⁹ Harold Berman, trying to set these laws in the history of a western legal tradition, saw Frederick as nothing more than elaboration on a Norman pattern.²⁰ Even in more specialised works of legal history, the consensus view is that Frederick's legal enactments offered a more 'joined-up' version of Norman rule – more powerful, more centralised, cutting down the space available for 'custom', but essentially a development of Norman practice. It was still law-making in the same mode, though more solemn, expansive, and ambitious.²¹ This is a historiographical assumption ostensibly supported by the texts, but one which rests upon the relative lack of interaction between scholars of Norman Sicily and scholars of the Staufen world. One significant exception to this has been Powell's discussion of the difference between Norman and Frederician legislation on matters of public health. Powell saw Norman legislation characterised by competitive emulation of Byzantine models, while seeing Frederick's constitutions as deriving from the arguments of Latin universities.²²

This chapter argues that there was, in fact, not merely a significant difference between Norman and Staufen legal codifications, but between Norman and Staufen understanding of the purpose of law and legal priorities. One arena in

which that difference is clearly observable is in the laws surrounding crimes done to women, crimes perpetrated by women, and the legal punishment of women. It is also an invitation to recognise that medieval codes which might *seem* broadly similar when it comes to their treatment of women and their bodies are not all of a piece. What follows is not an exercise in tracing the ultimate origins and models of these laws (whether in Roman texts or elsewhere), but in thinking through what we are able to say about the character of these constitutions, particularly where they concern women. Given the limitations of the surviving evidence, in some places we will not be able to say very much, but it is more than nothing.

The characters of codes

It is worth beginning with a general sketch of how Frederick's *Constitutions* treat crimes concerning women. A major concern within this code is the regulation of prostitution, and the *Constitutions of Melfi* set down several principles that would be followed by other law-givers in southern Italy over the next several centuries – typified by a tension between extirpation of vice and more pragmatic attempts at social containment.²³ Prostitution should be confined to designated areas; it should be kept outside the cities; those women who are found to have encouraged others into this behaviour must – once ‘convicted by legitimate proof’ (*legitima probatione convicte*, III.84) – not only be punished, but also be branded on the forehead in such a way that the mark of their crime will be instantly recognisable, and it will be harder to repeat the same action again.²⁴ Commentary on these laws has largely looked to the future, placing Frederick at the start of a legal tradition regulating the literal and moral cleanliness of the city.²⁵

The significance of these laws can hardly be appreciated unless we understand what Frederick (and his jurists) were working from, and the source material which they chose to develop or discard. As suggested above, this is complicated by the fact that we do not have a particularly good understanding of what Norman texts Frederick's compilers had to hand, although this was almost certainly a combination of written legal texts and oral accounts of the workings of the law provided by local judges or officials from within the kingdom.

The first of the laws in the *Constitutions of Melfi* which explicitly addresses Frederick's *female* subjects is a law which stipulates a penalty of death for anyone who rapes a nun or novice, a punishment to be enforced regardless of whether the assailant intended to marry the nun (*si quis rapere sancta Deo virgines aut nondum velatas occasione etiam iungendi matrimonii presumpserit, capitali sententia feriat*, I.20).²⁶ This enactment is almost a word-for-word re-issue of Roger's *Assizes*. Frederick's text also notes this, correctly attributing it to ‘Rex Rogerius’. What is of interest when comparing the codifications is *where* this law features in the scheme of legal codification. In the *Assizes*, as they are ordered in both the Vatican and Montecassino manuscripts, this law is part of a series concerned with the protection of the church and defining the church's extensive rights to land and tithes in the Norman kingdom. Roger threatens severe punishment for those who damage the physical edifice of the church, for those who sell relics, and those

who damage the physical edifice of the church (A.V, A.VII). The law asserting royal protection of religious women is part of a series aimed at demonstrating the relationship between crown and church and the moral goods to be done by royal codification – a point to which I will return. Even if this text does not represent the original order in which these laws were pronounced in an assembly, it does demonstrate how these laws circulated within the Norman kingdom, and how their principles of organisation were imagined.

In Frederick's *Constitutions*, that law is preserved but it is set in a new context. Although the first book begins with a condemnation of heresy, this law is not part of a series of enactments on religion, but instead a series of laws about how those accused of capital crimes should be tried and punished, and how they may defend themselves. Roger's very succinct law – it is only one sentence – fits very oddly among these constitutions. It seems to have only been inserted here by Frederick's jurists because of the way in which it prepares the ground for the law which follows. This is Frederick's own enactment, a discussion of the hierarchy of different legal proofs. In the past, the emperor explains (I.22.2), those tried under Roger's law on the rape of nuns could seek to prove their innocence through judicial combat; but such methods are no longer permissible and have been removed.²⁷ Roger's law becomes the starting point for an extended Frederician discussion of the kind of proofs that may be admitted in court. Is it sufficient 'proof' of rape to hear a woman crying and to find a man fleeing her house? How should prosecution then proceed? The most difficult cases, where proof is hardest, must be remitted to the emperor, that he may receive insight from God (*de manu celesti*) to ensure a just decision.

Indeed, where women feature as *victims* of crime in Frederick's *Constitutions*, the overriding concern for the jurists is that crimes which women are vulnerable to are particularly difficult to prove (I.24), and which may give rise to untruthful accusations (*per mendacium*).²⁸ Having begun from Roger's law concerning the rape of nuns, Frederick's jurists turn the discussion to the matter of legitimate proofs, and the need for a law concerning false accusations made by women. Thus far such a contrast might seem only to be the one expected between the legal worlds of the mid-twelfth and mid-thirteenth centuries: Frederick's more extensive code naturally contains more detailed provisions for dealing with the crimes committed by women; it reflects a more developed judicial apparatus. The contrast, however, is as much a matter of legal priorities as it is jurisprudential attention to detail.

For a second example, we can consider how both codes treat the matter of restitution under the law for women who are entitled to receive damages for legal injuries done to them. This idea of legal restitution – equitable restoration to a previous position – was a longstanding and relatively uncontroversial one; it was an idea derived from *Digest* IV. Indeed, the principles were so self-evident and important that the *Digest* begins by noting (IV.1.1) that the benefits of restitution are so self-evident that they do not require further explanation (*utilitas huius tituli non eget commendatione, ipse enim se ostendit*). Roger's law states only that, because of 'the fragility of their sex', women who have been injured by the

law should receive all necessary assistance in receiving damages, ‘aided from the depths of piety both by us and our officials, as is right and proper’:

Ubi non modice lese sunt, propter fragiliorem sexum, legum equitatem secantantes tam per nos, quam per officiales nostros ex pietatis visceribus subveniendum decrevimus, sicut decet et oportet.

(A.XV)²⁹

Expressed in this way, this might sound more like royal exhortation than a legal stipulation.

Frederick reissues Roger, then follows Roger’s law with his own imperial statement (II.44). The explicit rationale for this Frederician constitution is ‘to clarify the obscurity of the law that the divine King Roger, our grandfather, promulgated’ (*obscuritatem legis divi regis Rogerii, avi nostri . . . declarantes*),³⁰ i.e. to define the circumstances in which restitution may and may not be permitted, and to which women this will apply. To summarise: if the loss directly flows from their weakness as a woman, or the fault of their representatives, then restitution should be made; if a woman was adequately represented in court she cannot claim restitution. The constitution considers the possible circumstances in which women may have suffered loss, and the evidence required to demonstrate it. But Frederick’s law seems not so much to clarify or ‘reveal’ the purpose of Roger’s law (both possible meanings of the term *declarare*) so much as to *replace* it. Roger’s law offered a moral statement that women should receive assistance when it was proper for officials to provide it. Frederick’s constitution explains how this can happen: it both states the principle and then works through each possible exception. As such, it renders Roger’s law almost *practically* useless; all its provisions are contained within the new law of Frederick. Roger’s law is presented only in order to be modified by the constitution which follows it.

There were, of course, compelling ideological reasons why Frederick should reissue Roger on this point: the necessary reference to continuity with the good kings of the past; perhaps too the belief that an ‘imperial’ code worth its salt ought to contain the enactments of previous emperors. But what we have here is apparent continuity which masks a change in approach. In the Norman *regno*, matters of legal restitution had been left in the hands of officials – local leaders of the community with an injunction to exercise their discretion and their moral judgment. That was now transformed into a juridical test. This more widely mirrors the legal change we can observe happening between the twelfth and thirteenth centuries: from a reliance on judicial discretion to a reliance on legally-defined and codified procedures.³¹

My final example is the law concerning adultery. In Roger’s *Assizes*, this is the longest of all the surviving laws: it warrants greater attention than topics such as sacrilege or treason, matters *seemingly* closer and dearer to the royal dignity (A.XVII, A.XVIII, respectively). But that is because, as the *Assizes* acknowledge, the moral complexities of adultery are so much greater. The reason why Roger’s laws on adultery are so long is not their procedural detail, but because they contain considerable explanation and justification of how and why Roger

has mitigated the harshness of older laws on adultery. In 1231, Frederick's jurists dissected Roger's law on adultery – turning a single assize (A.XXVIII) into four Frederician constitutions (III.74–77). They reproduced what we might think of as the legal 'meat' of Roger's text, much of which was derived from book IX of the *Codex*: male adulterers would lose their property, unless they had legitimate children who could expect to inherit; any husband who encouraged or permitted his wife to commit adultery could not in turn accuse her of the same offence in court; female adulterers should not be handed back to husbands who would kill them; instead they should have their noses split as punishment. Patricia Skinner, in a compelling article on the multivalent symbolism of nose-splitting in the medieval world, suggests that the inclusion of this punishment in Frederick's *Constitutions* was a product of the intellectual interests of his court in physiognomy and deformity.³² How outward physical deformity mirrored moral depravity may well have been a point of intellectual discussion for Michael Scotus and others, but the most straightforward explanation for the inclusion of this law in the *Constitutions* is that was the straightforward recopying of a Norman law.

Frederick's compilers chose not to reproduce one section of Roger's law on adultery: the extended reflection which describes how a theological concept of mercy and the importance of judicial discretion should inform the application of those laws. This section begins by arguing that there cannot be precise laws made for the punishment of an adulteress, because her punishment must be dependent on the circumstances. Leniency may be recommended in cases where the woman was young or compelled by another; where she was compelled by financial means to enter into an adulterous arrangement; if the marriage was unhappy this may be a further reason. The sentence must depend 'on the balance of fairness' (*de lance equitatis*). Roger's law offers the judge moral advice rather than procedural stipulations, invoking Matthew vii.2 rather than strictly jurisprudential reasoning:

for, if we proceed in this way, justice will tally perfectly with divine justice; nor will we be departing from that divine verdict, 'with what measure ye mete, it shall be measured to you once again'.

'sic, enim, perfecta iustitia divine iustitie respondebit. Nam nec nos poterit illa divina sententia: in qua mensura mensi fueritis remetietur vobis'.³³

This advice is not to be found in the *Constitutions*. Given what we know about the attention paid to organisation in the compilation of the constitution, and Frederick's own interest in law as an organising principle for society, it is hard to interpret this as an accidental omission. Instead, it points to a more fundamental difference between Roger's *Assizes* and Frederick's *Constitutions*. For this we need to conclude by considering the prologues to both sets of laws.

The proemium to Frederick's *Constitutions* begins loftily, describing God's creation of the universe; creation of the angels, then the creation of man and the granting of man's dominion over the animals; and, then quoting from Augustine's *De civitate Dei* (xv.2), emphasises that as part of God's raising man above the animals, he was given a wife in Eden; an action which was part of God's rewarding

and honouring of man.³⁴ Frederick asserts that law is about the restoration of right order after the stain of original sin; from the start that right order is predicated, fundamentally, on the correct relationship between man and wife: man and woman transgressed together and were both condemned for it; both stained with their transgression.

The Norman *Assizes*, however, strike quite a different tone, informed by the principles of earlier twelfth-century jurisprudence. In Roger's prologue, the king has two roles: first, making law, and secondly, mercifully interpreting and moderating the 'inhumanity' (*inhumanitas*) of older laws. This is not necessarily what one would expect from a king with Roger II's fearsome reputation, but the Norman code repeatedly returns to human moral fallibility. The king himself can err; humans are inclined to err; and therefore wrongdoers should be treated with moderation, and attempt to emulate divine principles of mercy. Nothing else is 'appropriate to our times' (*nostra temporibus apta conveniens*).³⁵ This is more than a mere rhetorical flourish: it is a principle repeated throughout the *Assizes*. Discretion is necessary in a judge because of the diversity of customs and people in the Sicilian kingdom; but mercy in the law is a moral injunction.

It is here where specifically 'female' crimes become relevant again. Roger's *Assizes* assert a moral obligation for judges to intervene when applying the law; there is no group more in need of this judicial mercy than women: deserving of pity, easily led into crime, the duty to weigh women's crimes most carefully is a moral one before it is a procedural one. Under Frederick's laws, that contrast between male and female crimes is softened if not diminished: this is not about looking for candidates for mercy, but cases which fit particular exceptions or exemptions.

Conclusion

This contribution to a volume on the history of women and violence in the medieval Mediterranean may prove frustrating for those who do the important work of seeking out and understanding medieval women's *experience* of law and the courts. These codes can, at best, reveal only how male jurists thought of women, not how women themselves engaged with the law. If such codes were a model for the regulation of the universe, and a means of asserting order in a seemingly disordered, post-lapsarian, earthly society, we can perceive in them the occasions on which women were most likely to be the victims or causes of that disorder. Yet, while this kind of intellectual legal history may not do much for the history of women's experiences, thinking about the treatment of women in law codes can offer much to the legal historian. A consideration of women's crimes and the difficulty of their proofs offers a useful means of understanding the distinctions between Norman and Frederician legal worlds – perhaps rather more considerable than legal scholars have sometimes assumed. They reveal, at the very least, a certain sleight of hand on the part of Frederick II – superficial claims of continuity are not borne out by the brass tacks of legal detail.

I should like to suggest one further Frederician sleight of hand which legal scholars seem not to have remarked upon: the choice to issue the *Constitutions*

at Melfi, a town long associated with Norman authority. Roger II had himself held an assembly there in 1129, proclaiming a general peace after recapturing the town. In Melfi the king had, reputedly, assembled the leading nobles of the kingdom and taken counsel.³⁶ While it is necessarily a speculative suggestion, it seems quite possible that Frederick II was attempting to associate his own legal promulgations with the memory of such Norman law-giving activity. Continuity was a matter of rhetoric and location, and Frederick II was an accomplished stage-manager.

But let us return to women. Some of the particular differences between Roger and Frederick's codes may seem to be a product of the difference between twelfth- and thirteenth-century responses to the stimulus of Roman law – partial engagement *versus* forensic systematisation. That is partially, but not totally, accurate. Roger's *Assizes* place moral arguments before legal ones – a frame which emphasises flexibility and the possibility of exception. At least in theory, the *Assizes* create greater space for women accused of crimes to plead exceptions or seek discretion. Frederick's *Constitutions* – the more detailed text – leave much less space, closing down the possibilities for special pleading and regulating exceptions. This is a principle which applies generally across both codifications, but seems to have special significance for crimes committed by women. The parts of the *Assizes* which treat crimes committed by women are the ones which most frequently invoke the idea that punishment might be set aside out of consideration for the circumstances and the pitiable nature of the accused.

The rulers of Norman Sicily presented a vision of the law where all were sinners, but with a special place for women's vulnerability before the law. Whether this penetrated into legal practice must remain an unanswered question: the legal records simply do not survive from twelfth-century Sicily to answer this. There is, however, one thought to conclude with. One particularly striking image of the act of judgment survives from Norman Sicily: from the late twelfth century, in mosaic in Byzantine style, in the north aisle of the cathedral at Monreale.³⁷ The cathedral itself, just outside Palermo, was begun by William II in 1174, and intended to represent the Norman monarchy in its fullest majesty. The mosaic scheme itself presents selected scenes from Old and New Testaments. This mosaic does not show any *royal* judge, but instead depicts Christ as a judge who refused to condemn an adulteress. The mosaic represents the biblical story of John viii.11: a woman guilty of adultery is presented to Christ for judgment, but he instructs that only someone without sin may throw a stone at her; the scene is identified by the words 'in adulterio deprehensam' above the image. The common sinfulness of all humanity effectively renders the due punishment void. This is not an image of the application of law, but the setting aside of the law, out of pity for womanly weakness. It is, perhaps, another example of a woman accused of a crime being used as a moral puzzle, an example to think with and think through. For Norman judges it was an exhortation to moral judgment. For medieval historians, it should serve as a reminder to look beyond the shared Roman frame of Roger and Frederick's laws, and into the intellectual context which informed their legal cultures.

Notes

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- 1 Fröhlich 1992.
- 2 Zielinski 1982.
- 3 Baaken 1995.
- 4 Otto of Freising 1884, pp. 89–90.
- 5 Byrne 2020b.
- 6 Wolsing 2019.
- 7 Annals of Marbach 1908, p. 69.
- 8 Foerster 2013.
- 9 Fixot 2005.
- 10 Wolsing 2019.
- 11 Pennington 2006; Cortese 2009; Pennington 2010.
- 12 Zecchino 1996, p. 58.
- 13 Stürner 1996, pp. 147–148.
- 14 Ménager 1981, p. 495; Santini 1996, p. 83.
- 15 Stürner 1996, pp. 447, 446; Powell 1971, p. 148.
- 16 Nancarrow 2019.
- 17 Wieruszowski 1963.
- 18 Byrne 2020a.
- 19 Abulafia 1988, p. 208.
- 20 Berman 1983.
- 21 Conte, Mayali and Pasciuta 2019.
- 22 Powell 1979.
- 23 Pullan 2016, pp. 29–44.
- 24 Stürner 1996, p. 446; Powell 1971, p. 148.
- 25 Hoffmann 1996, p. 657.
- 26 Stürner 1996, pp. 172–173; Powell 1971, pp. 23.
- 27 Stürner 1996, pp. 175; Powell 1971, pp. 25–26.
- 28 Stürner 1996, p. 177; Powell 1971, pp. 26.
- 29 Loud 2012, p. 319.
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Part III

Violence and female social roles



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8 La *parrèsia* comme expression de la violence féminine à Byzance

Élisabeth Malamut

Introduction

Le philosophe Michel Foucault a fait une série d'interventions sur la *parrèsia* en 1982–1983, que l'on trouve désormais rassemblées en un petit volume.¹ Les éditeurs font remarquer que tous les 'textes' de Foucault portant sur la *parrèsia* sont au départ des présentations orales, des leçons prononcées de vive voix. La notion de *parrèsia* est d'abord en effet un éloge de la parole vivante. L'oralité est son milieu naturel.

La *parrèsia* existait dans l'Antiquité grecque: elle désignait la liberté de parler, liberté en quelque sorte démocratique, adresse d'un citoyen à un autre fondée sur l'égalité. Dans le cadre démocratique, la *parrèsia* est un droit politique qui permet à l'homme politique influent (l'exemple est Périclès), de participer activement au gouvernement de la cité et d'emporter l'adhésion de ses concitoyens par la franchise de son discours. Avec les monarchies hellénistiques, cette forme de la *parrèsia* politique devient dominante; le bon prince est celui qui accepte que ses conseillers pratiquent la *parrèsia* à son égard. Dans l'Antiquité tardive, la *parrèsia* fut dévolue au philosophe, qui appartenait à la classe des notables et participait à la *paideia* des élites. Un exemple célèbre et féminin est celui de la philosophe Hypatie, qui enseignait à Alexandrie en 415:

Tous ceux qui voulaient philosopher accouraient de toute part auprès d'elle. La vénérable liberté de langage (*parrèsia*) qui lui venait de son éducation (*paideia*), la mettait de temps à autre en présence des archontes et elle n'avait aucune honte à se trouver au milieu des hommes. Tous en faisaient l'éloge à cause de sa sagesse (*sophrosynè*) supérieure et étaient frappés d'admiration. Mais contre elle la jalousie s'arma. En effet, comme elle rencontrait très fréquemment Oreste, cela suscita contre elle l'aversion du peuple des chrétiens, sous prétexte qu'elle ne permettait pas qu'Oreste eût des liens d'amitié avec l'évêque.²

Le préfet de la ville Oreste reconnaissait à Hypatie le droit à la *parrèsia*, ce qui déclencha la colère du patriarche Cyrille qui ne supportait pas que ce droit fût dévolu à une païenne. De plus, sa jalousie fut à son comble quand, passant devant la maison d'Hypatie, il vit une foule d'hommes et de chevaux qui trépi-gnaient devant sa porte, les uns s'approchant, les autres entrant, les autres enfin

en sortant.³ Il lança la foule chrétienne contre son char alors qu'elle circulait dans la ville et elle fut lynchée. Ainsi aux cinquième–sixième siècles le philosophe, inspiré du bien public, perdit sa liberté de parole au profit de l'évêque chrétien qui désormais jouissait de l'oreille de l'empereur et de ses représentants.⁴

La *parrèsia* est une certaine parole de vérité, un dire-vrai qui ne relève ni d'une stratégie de démonstration, ni d'un art de la persuasion, ni d'une pédagogie: il faut que le sujet, en disant cette vérité qu'il marque comme étant son opinion, sa pensée, sa croyance, prenne un certain risque, risque qui concerne la relation même qu'il a avec celui auquel il s'adresse. Un acte d'affirmation de soi-même. 'La *parrèsia* est donc, en deux mots, le courage de la vérité chez celui qui parle et prend le risque de dire, en dépit de tout, toute la vérité qu'il pense, mais c'est aussi le courage de l'interlocuteur qui accepte de recevoir comme vraie la vérité blessante qu'il entend'.⁵ D'où l'évolution de la *parrèsia* dans un dire-vrai souvent brutal et provocateur, qui contient un danger, qui l'expose au rejet ou même à la colère de son ou ses interlocuteurs. Enfin, l'implication et la manifestation, dans une transparence totale, de celui qui parle dans la vérité de ce qu'il dit, engendrent nécessairement une tension. C'est donc la vérité dans le risque de la violence et vice-versa.

La *parrèsia* peut comporter une dimension éthique: elle intervient dans les pratiques de direction de conscience. Il s'agit cette fois de conduire les âmes vers la sagesse et la vérité, en usant d'une parole directe qui dénonce les mauvaises pensées du dirigé. La *parrèsia* est à l'inverse de la confession. C'est le *parrésiate* qui parle, contrairement au confesseur qui reste muet. De même la *parrèsia* s'exprime oralement, car elle s'oppose au texte écrit fermé. Enfin, étymologiquement, *parrèsia* (pan-rèsia) veut bien dire 'le tout dire'.

Saisir la *parrèsia* féminine à travers une écriture masculine

La proximité que j'ai entretenue avec la femme à Byzance depuis de nombreuses années⁶ m'a fait découvrir que la violence féminine s'y exprimait justement par la liberté de langage, la *parrèsia*. Mon étude concernera l'ensemble des femmes de la société, ou tout au moins aurait une telle ambition si les sources le permettaient. Néanmoins, je tenterai une telle approche. Je présenterai des exemples de *parrèsia* féminine alors que le terme n'est pas employé dans les sources, sauf dans le cas des saintes femmes. En effet, la *parrèsia*, qui a un sens en général positif, n'est pas accordée par l'auteur masculin à la femme. Le cas de l'historien Jean Cantacuzène est exemplaire, qui s'attribue à lui-même le terme de *parrèsia* quand il qualifie son propre discours, alors que la liberté de parole d'Anne de Savoie n'est jamais qualifiée comme telle.

Examinons la façon dont Cantacuzène relate les événements de 1341 juste après la mort d'Andronic III. Il transcrit alors intégralement les discours tenus par la tête de l'Empire, soit le patriarche Jean Kalékas, Anne de Savoie et lui-même. Tout d'abord, ayant fait savoir à Anne de Savoie par le truchement du patriarche sa volonté de démissionner, il reçoit la réponse d'Anne par le même truchement du patriarche:⁷

Si tu t'obstines dans ta décision [de démissionner] en disant à tous que tu t'en réjouis, eh bien moi, ce que je ferai, je te le dis clairement (*phanéron*):

abandonnant toute pudeur et faiblesse féminine, et comme si j'avais perdu la raison à cause de la grandeur de mes malheurs, j'irai au milieu de la ville et je grimperai sur une hauteur afin que tous m'entendent et je crierai le plus fort possible: hommes Romains, et vous tous Hellènes et Barbares, sachez-le, tout est perdu et détruit, il n'existe aucune grâce pour l'amitié chez les hommes et ni la vérité ni la justice n'importent plus à personne; et que la fermeté du raisonnement a disparu des hommes et, pour ainsi dire, tous les biens, car le grand domestique, comme s'il se trouvait en vent contraire, devient son propre adversaire et, oublieux de l'amitié de l'empereur, néglige la vérité le concernant, la justice et l'amour du bien. Il a décidé de ne plus s'occuper de rien le reste de sa vie, et moi et mes enfants qui avons tant besoin aujourd'hui de sollicitude, il nous a rejetés et abandonnés comme un fardeau inutile . . .

Donc Anne se sert du truchement du patriarche pour donner sa réponse en style direct et en libre parole au grand domestique. Il n'y a rien d'écrit. Tout est oral. Elle imagine alors sa propre violence qui s'exprimera par des paroles de vérité qu'elle transmet à Cantacuzène. En s'exposant au milieu de tous depuis une hauteur et en prenant la parole, elle fera acte de virilité, mais plus encore de courage de dire à tous les peuples la vérité et la justice.

Des propos d'Anne de Savoie rapportés oralement par le patriarche, le grand domestique dit qu'ils étaient justes et qu'ils convenaient à la vérité, mais il n'emploie pas le terme *parrèsia*: 'Le grand domestique, comme s'il s'était convaincu lui-même, que ces paroles étaient justes et naturelles ne put rien répondre à une démonstration si évidente de la vérité'.⁸

C'est alors que Jean Cantacuzène va retrouver Anne de Savoie et s'entretient directement avec elle. De son discours de réponse à Anne de Savoie nous retiendrons les tout premiers mots:

Je dirai de moi avec *parrèsia* que je n'ai jamais voulu changer auparavant mon habit actuel pour celui d'empereur, alors que l'empereur m'en avait prié de nombreuses fois et je ne le veux pas davantage maintenant.⁹

Cantacuzène exprime la vérité de ses propos en utilisant le terme de '*parrèsia*' qu'il n'a pas accordé à Anne de Savoie. Ensuite, il se lance dans une longue tirade où il conjure l'impératrice de ne pas accorder de crédit aux calomniateurs, faute de quoi il se retire. De son long discours l'historien donne ce commentaire:

Le grand domestique ayant dit ces choses avec *parrèsia* et sans déguisement, l'impératrice le loua de n'avoir rien dit de cruel ni de dur, comme lui-même avait souhaité qu'elle entendit son discours, mais d'avoir tenu des propos de vérité, de justice et de *parrèsia* qui convient à un ami sincère.¹⁰

Ainsi on trouve la définition de la *parrèsia* aussi bien par Cantacuzène que par Anne de Savoie par le truchement de ce dernier comme libre parole, qui se fonde sur la vérité et la justice. Pourtant le terme de *parrèsia* pour qualifier deux

discours de vérité, de justice et de sincérité n'est accordé par l'auteur Jean Cantacuzène qu'à lui-même.

L'impact de l'écriture masculine est donc déterminant puisque les auteurs byzantins furent à quelques exceptions près des hommes, mais il arrive que dans certains cas la *parrèsia* s'impose au féminin comme concept de 'libre parole' et que le terme correspondant soit employé.

La femme à Byzance peut-elle avoir une libre parole?

La question a été posée par Théodora au sixième siècle et dans la *Novelle* 48 de Léon VI. À propos de Théodora, l'épouse de Justinien, et d'autres impératrices du haut Moyen Âge byzantin on a pu relever la propension des auteurs byzantins à relever leurs accès de colère.¹¹ Dans son *Histoire Secrète*, Procope montre à mainte reprise Théodora envahie par la colère et justifie ainsi qu'elle ne soit pas apte à se comporter comme il sied à une impératrice, car incapable de modération.¹² La colère féminine serait à distinguer de la juste colère masculine qui pouvait inciter l'empereur à corriger les abus et punir les auteurs de troubles, mais qu'il contrôlait et intériorisait: Julien l'Apostat prompt à la colère 'ne devait pas la laisser transparaître dans ses yeux ou sa voix' selon le conseil de son médecin Oribase.¹³ Pour les Byzantins, l'impératrice devait partager la juste colère masculine si elle voulait partager le pouvoir et non s'adonner à la colère hors de contrôle que l'impératrice devait à son sexe. On notera que la colère appartient aux émotions et doit être distinguée de la *parrèsia* qui relève de la *paideia*, et permet à certains de dire la vérité et être de bon conseil envers ceux qui détiennent le pouvoir. Ainsi la relation de Procope concernant Théodora lors de la sédition Nika n'a rien à voir avec les colères de Théodora relatées dans l'*Histoire secrète* et doit être perçue comme le franc parler d'une *augousta* associée à la *basileia* de Justinien, elle qui participe aux séances du conseil du prince, le *concilium*, et intervient dans l'activité législative de l'empereur.¹⁴

La *parrèsia* de Théodora, l'épouse de Justinien, est l'exemple le plus célèbre des femmes impératrices qu'il faut sans aucun doute relier à la célébrité de Théodora et surtout aux événements si particuliers qui se déroulèrent les 12–19 janvier 532 lors de la sédition dite *Nika*. Selon Procope, l'impératrice Théodora y joua un rôle décisif qui resta dans la mémoire des Byzantins. Même si l'authenticité du récit de Procope a été mise en question dans la mesure où aucun autre historien¹⁵ ne confirme la déclaration de Théodora, l'important c'est qu'elle paraît assez crédible dans un contexte où Justinien n'a pas le beau rôle et alors même que Procope déteste Théodora. Rappelons les faits qui précédèrent la prise de parole de l'impératrice.

Après cinq jours de désordre public qui suivirent le refus de Justinien de gracier les condamnés des deux factions, coupables de meurtres, qui devaient être pendus mais tombèrent vivants de leur potence, les deux partis se donnèrent le cri de ralliement '*Nika*, sois vainqueur'. Les émeutiers s'en prirent aux bâtiments publics, demandèrent le renvoi de plusieurs fonctionnaires et, en priorité, du préfet du prétoire Jean de Cappadoce. Malgré la satisfaction de leurs requêtes, le calme ne

revint pas. Des incendies ravagèrent une grande partie de la ville. Puis l'émeute prit un tour politique.¹⁶

Le dimanche 18, l'empereur Justinien apparut dans sa loge, le *kathisma*, et l'évangile à la main, il essaya en vain d'apaiser la foule. Hypatios, apparenté à l'ex-empereur Anastase, est proclamé empereur contre son gré sur le forum de Constantin. Justinien voulait fuir. C'est alors que Théodora aurait retourné la situation.¹⁷

L'empereur et son conseil (*boulè*), se demandaient quelle était la meilleure solution: rester ou prendre la fuite en bateau. Et beaucoup d'arguments furent échangés dans un sens ou dans l'autre. Et Théodora l'impératrice dit ceci: 'le fait qu'une femme ne doive pas oser être présente dans un conseil d'hommes ou parler avec hardiesse (*neanieusthai*) au sein de ceux qui hésitent à prendre parti, je pense que la situation actuelle est la moins propice pour prendre l'une ou l'autre position. À ceux dont les affaires sont en très grand danger rien ne semble être meilleur que de choisir la meilleure solution qui s'offre. Quant à moi, il ne resterait maintenant d'autre moyen de salut que la fuite, je pense qu'il est inopportun de fuir. À tout homme qui vient à la lumière, il n'est pas possible d'échapper à la mort, mais pour celui qui règne prendre la fuite n'est pas tolérable. Puissé-je n'être jamais sans la pourpre ni ne vivre ce jour où ceux qui me rencontreraient ne m'appelleraient pas *despoina*! Toi, *basileus* si tu veux fuir, il n'y a pas de problème. Tu as en effet beaucoup d'argent, la mer est là, les vaisseaux sont prêts; mais prends garde qu'à toi qui auras été sauvé le plus agréable ne serait de recevoir la mort en échange du salut. Moi, elle me plaît, cette antique parole: que la royauté (*basileia*) est un beau linceul'.

Donc Théodora a pris la liberté de parole, elle s'est exprimée avec *parrèsia* devant un conseil d'hommes. Cette prise de parole est inattendue. Elle balaye la solution pour les femmes de rester à l'écart d'un conseil d'hommes quand il faut faire face au danger. Elle choisit d'être présente et de parler. Relevons les termes: Procope utilise le terme de *neanieusthai*: parler avec hardiesse et fougue comme 'un jeune homme' au milieu des hommes. La *parrèsia* de Théodora est assimilée à un acte de virilité faisant front à la lâcheté de Justinien, qui, à l'inverse, aurait agi comme une femme.¹⁸ Elle prend une dimension éthique en dénonçant les velléités de Justinien d'amasser tout l'or qu'il pourra et de prendre la fuite. Enfin, elle se réclame de l'histoire ou de ce que l'on tenait comme historique en citant à propos de Denys de Syracuse, mais en le modifiant, le célèbre dicton: 'la tyrannie est un beau linceul', qui devient dans sa bouche 'la royauté est un beau linceul'.

On peut suggérer une parenté certaine avec la *Novelle* 48 de Léon VI concernant le témoignage des femmes au tribunal que l'on aurait permis jusque-là à l'égal des hommes.¹⁹ Relevant que les femmes 'usent de leur langue de façon irrévérencieuse au milieu des hommes', l'empereur met en avant le terme de *parrèsia*: 'Accéder au témoignage ouvre la voie à une liberté de parole (*parrèsia*) qui ne convient pas aux femmes',²⁰ à partir de quoi elles se mêlent à des assemblées nombreuses et se tournent vers des affaires d'hommes: cela supprime la soumission et la pudeur qui sont dans la nature féminine et les fait progresser en

impudeur. Le phénomène comporte en outre une sorte d'outrage (*hybris*) pour les hommes. Car que serait-ce d'autre qu'un outrage, et qu'un outrage très grave, que la participation du genre féminin à des affaires dont le maniement est au plus haut point le propre des hommes?²¹

Nous retrouvons plusieurs caractéristiques de la *parrèsia*, une virilité certaine, qui s'oppose à la pudeur, et qui permet aux femmes de parler en public. Rappelons à cet égard qu'Anne de Savoie disait vouloir abandonner sa pudeur féminine et monter sur une éminence pour parler librement à tous. S'y ajoute ici le fait qu'en usant de *parrèsia* la femme s'affranchit de la soumission. Enfin, la *Novelle* introduit une nouvelle notion, celle du non-respect de la séparation des *genè* masculin et féminin, quand elle évoque une confusion et une subversion des limites naturelles qui séparent le sexe masculin et le sexe féminin.²² Et, en conséquence, céder au sexe féminin le maniement des affaires est un très grand outrage pour les hommes auxquels cela revient en propre. On constate dans la *Novelle* de Léon VI qu'il ne s'agit plus de tergiverser, comme il paraissait dans le texte de Procope, de savoir si les femmes pouvaient ou non participer à un conseil d'hommes, mais que la nature même des sexes interdit ce genre d'assemblée.

Pour en revenir au texte de Procope, un second aspect doit être souligné, celui de la *parrèsia* de Théodora vis à vis de son époux et empereur. C'est bien le fait d'avoir été couronnée qui lui donne la liberté de parler avec franchise à l'empereur. Il y a quelque chose de divin dans cette libre parole dans la mesure où il faut choisir une voie et où l'empereur et l'impératrice participent du divin par leur couronnement. Effectivement, il y a une violence dans les propos de Théodora vis à vis de son époux quand elle évoque les attermolements de Denys de Syracuse face à l'invasion carthaginoise et implicitement se compare au conseiller (et pourrait-on dire *parrésiate*) incitant le tyran à l'audace et à la résistance en lui disant que la royauté est un beau linceul et le remettant de la sorte en selle.²³

L'inflexion chrétienne et la valorisation de la *parrèsia* pour la sainte femme

Avec le christianisme, le sens évolue et dans les *Épîtres de Paul*, la *parrèsia*, c'est tout d'abord la capacité du croyant à s'adresser directement et librement à Dieu.²⁴ Le verbe *parrésiazesthai* signifie 'parler ou agir avec assurance'.

Ainsi la *parrèsia* (liberté de parole) est devenue le domaine privilégié des saints moines. Cette franchise (le franc parler), on dirait même audace et arrogance, était la 'franchise selon Dieu'. Dans les sources byzantines, la *parrèsia* désigne souvent la proximité du saint moine avec l'empereur, qui pouvait selon les cas trahir les conflits ou la familiarité bienveillante. Elle peut s'adresser aussi à de hauts personnages, ainsi la *parrèsia* de violence de Nikôn le Métanoëite envers le stratège de l'Hellade qui jouait aux boules avec sa suite devant l'église du saint à l'agora de Sparte:

Se tenant au milieu avec une libre parole et de sa voix la plus hardie il les blâma tous et les réprimanda avec les mots les plus violents et les plus cinglants, montrant la *parrèsia* qui convient aux justes.²⁵

Comme témoin privilégié féminin de cette inflexion chrétienne, il faut évoquer Kassia, la grande hymnographe du neuvième siècle, qui fut, selon la tradition, la candidate malheureuse du concours de beauté organisé pour le mariage de Théophile.²⁶

L'histoire est racontée par Syméon le Logothète. Le concours de beauté a été organisé par Euphrosyne, la belle-mère de Théophile en 829. Euphrosyne avait rassemblé les plus belles jeunes filles dans le Triklinos de la Perle, parmi elles Kassia, appelée Ikasia, d'une exceptionnelle beauté et Théodora.²⁷ Elle donna une pomme d'or à Théophile qui devait l'offrir à celle qui lui plairait. Frappé par la beauté de Kassia, Théophile lui dit: 'ah, quel flot de choses terribles sont arrivées du fait de la femme'. Kassia aurait répondu: 'mais aussi du fait de la femme les meilleures choses ont jailli'. Alors, Théophile la dépassa et offrit la pomme à Théodora.

Dans cette histoire transparaît le refus d'intimidation du fait de son sexe, qui ne traduit pas de l'arrogance: on mentionnera que Kassia répondit avec pudeur (*met'aidous*). Or Théophile fut blessé en son cœur par les mots prononcés. La *parrèsia* est indépendante de la manière dont le dire-vrai est énoncé. Les mots de Kassia s'ancrent néanmoins dans la doctrine chrétienne. Ils s'inscrivent dans son aspiration à la vie monastique, comme en témoigne déjà sa correspondance avec Théodore Stoudite.²⁸

Il était admis que pour les saints moines leur intimité avec Dieu fondait leur *parrèsia*, c'est-à-dire leur liberté de langage, avec l'empereur ou n'importe quel personnage important de l'Empire. Néanmoins, la *parrèsia* représentait un danger pour les moines et les nonnes encore peu engagés dans la vie monastique, danger que relève Kassia quelques années plus tard quand elle fut abbesse du monastère qu'elle avait fondé et qu'elle composa des épigrammes à caractère gnomique à l'intention de ses moniales. Dans l'une d'entre elles, Kassia donne une fausse étymologie à *parrèsia*: 'La *parrèsia* est la mère de la grossièreté (*apaideusia*). *Parrèsia* vient de *para to ison* au-delà de ce qui est juste, car elle va au-delà de la justice et de la mesure'.²⁹ La *parrèsia*, c'est-à-dire la liberté de parler, est un privilège donné par Dieu tout Puissant à celles qui ont un certain degré de sainteté, mais c'est un fruit interdit pour celles qui commencent leur carrière au monastère, car elle conduit vite à l'impertinence et au dévergondage. Pour avertir ses nonnes des dangereux pièges de la *parrèsia*, Kassia use d'une fausse étymologie, parce que dans un sens abusif, la *parrèsia* peut donner lieu à s'exprimer de façon inconvenante. Pour Kassia c'est un signe de grossièreté, d'impolitesse ou d'impertinence. Ne doutons pas que Kassia soit issue des élites de la *paideia*, même si elle s'en détourne:

À la place de l'éducation grecque, les saints martyrs préférèrent la sagesse des apôtres, ils se détournèrent des livres des rhéteurs pour exceller dans ceux des pécheurs car c'est là qu'ils apprirent l'éloquence de la parole . . .³⁰

La *parrèsia* devant Dieu de la sainte femme était considérée par les Byzantins comme une réalité à l'égal de celle du saint moine, dont Irène de Chrysobalanton fut un exemple visible à tous.

Cette abbesse controversée aurait vécu sous le règne de Michel III (ou de Basile I) et la *Vie* elle-même rédigée sous le règne de Basile II.³¹ Venant de Cappadoce,

Irène aurait fait partie de ces prétendantes au concours de beauté qui eut lieu en 855, mais selon sa *Vie* serait arrivée trop tard, car elle aurait fait un détour pour visiter saint Iôannikios, alors que ce dernier était mort en 846! De même, elle aurait été ordonnée abbesse à Constantinople par Méthode mort en 847! Donc les dates restent très incertaines, au point que l'éditeur de la *Vie* pense qu'elle a vécu sous Basile II, date de la rédaction de la *Vie*. Je n'entrerai dans cette discussion tout en ayant le sentiment qu'elle a plutôt vécu sous le règne de Michel III ou de Basile I plutôt qu'à la fin du dixième siècle. Elle se trouve en tant qu'abbesse à défendre un Gouber injustement emprisonné pour complot contre l'empereur selon ses proches. Elle-même est une parente de l'accusé.

Au cœur du texte se trouvent le conflit avec l'empereur et sa résolution grâce à la *parrèsia* de sainte Irène avec Dieu:

Encore une de ses actions merveilleuses doit être ajoutée au récit, une preuve évidente de sa proximité de Dieu et de sa liberté de parole (*parrèsia*) devant Lui. Guidés par la jalousie, des gens avaient calomnié un des parents proches de la sainte femme devant l'empereur, un acte tel que souvent le Démon incite ceux qui sont férus des mondanités à commettre. C'était un homme honoré de la dignité d'*illoustrios* et de notoriété. Et il ne s'agissait pas d'une petite calomnie: 'il prépare contre ton pouvoir tout ce tout ce qui est propre aux comploteurs'. L'empereur ne supporta pas même une seule question sur cette affaire . . . L'homme fut sur son ordre arrêté et enfermé dans une prison obscure du palais, sans même connaître la cause de la colère de l'empereur. Quand les proches de cet homme entendirent la rumeur autour du palais, que l'empereur allait le jeter au fond de la mer- non pas le jour, mais la nuit afin que son corps soit privé de tombeau, puisqu'aucun de ses proches ne serait averti de la manière dont il serait mort – , alors ils furent entièrement désespérés et se réfugièrent auprès de celle qui avait la *parrèsia* devant Dieu, Irène, et vidant leurs yeux de toutes leurs larmes, ils l'exhortèrent à aider son parent qui risquait sa vie de façon injuste, grâce à ses prières bien reçues de Dieu. Alors Irène – qu'aurait donc fait dans cette situation une âme exercée à la philanthropie divine et qui savait bien satisfaire Sa loi d'amour ? – entièrement chagrinée, ayant soupiré profondément et pleuré, leur ordonna de rentrer chez eux et de ne pas perdre courage. 'Mettons nos espoirs dans le Seigneur et il nous aidera'. Elle ferma la porte et pria Dieu avec ferveur.³²

L'empereur se réveilla vers minuit en voyant – il ne rêvait pas – sainte Irène se tenant devant lui et lui disant:³³ 'Empereur, lève- toi immédiatement et libère de prison celui que tu as enfermé injustement. Rien de ce que l'on t'a dit contre lui n'est vrai, tout cela n'est que mensonge et calomnie (*sykophantia*). Sinon je pousserai contre toi le Roi des cieux et fomenterai contre toi une guerre et un massacre de sorte que ta chair serve de nourriture aux bêtes de la terre et aux oiseaux du ciel'.³⁴ Agité et bouillonnant de colère, l'empereur répondit: 'Qui es-tu et d'où viens-tu pour oser me menacer avec une telle insolence ? Qui t'a permis d'entrer à cette heure?' Et elle lui répondit: 'Je suis Irène, l'abbesse du couvent de Chrysobalanton'. Elle ne le dit pas une seule fois mais trois, en le piquant dans la côte la troisième fois et elle s'éloigna.

Mais qui n'admirerait pas les prodiges de Dieu? L'empereur se réveilla en éprouvant une douleur sur le flan et la vit marcher devant ses yeux et ayant atteint la porte quitter la chambre.

On note la grâce d'Irène qui avait 'la *parrèsia* devant Dieu' et l'extrême violence de l'expression de la *parrèsia* à la fois par le libre parler (tout est mensonge et calomnie), violence à la fois orale (la référence à la Genèse) et physique (la piqure ressentie par l'empereur sur le flan).

L'empereur pensa qu'il avait eu une vision divine (*theia optasia*) et demanda au prisonnier par quel tour de magie il lui avait transmis un rêve (*oneiron*). Celui-ci affirmant qu'il n'avait pas fait œuvre de magie ni participé à un quelconque complot, l'empereur lui demanda s'il connaissait Irène de Chrysobalanton et où on pourrait la trouver. L'homme lui répondit que son monastère se trouvait près de la citerne d'Aspar. Alors l'empereur y envoya le protovestiarite et le sacellaire et d'autres parmi les grands (*megistanes*) avec leur suite ainsi qu'un peintre pour faire le portrait d'Irène. Arrivés au couvent, les dignitaires virent sa face illuminée. Terrifiés, ils reculèrent et tombèrent sur le sol comme ceux qui vinrent arrêter le Christ.³⁵ Elle s'approcha d'eux et leur dit:³⁶

Mes enfants n'ayez pas peur, je suis aussi un être humain entouré de l'infirmité naturelle des humains. Mais pourquoi lui qui vous a envoyés vous cause-t-il du trouble dans sa méfiance ? Dites-lui encore ce qu'il croit avoir entendu de moi en rêvant (*en oneirō*): 'Relâche cet homme de prison. Il n'a rien fait de mal et il n'a pas comploté contre ta Majesté. Sinon les paroles qui t'ont été dites deviendront sûrement vraies et le Seigneur ne tardera pas, car Lui est proche de ceux qui l'invoquent, de ceux qui l'invoquent en vérité'.³⁷

La *parrèsia* d'Irène doit être connue de tous et c'est pourquoi nous assistons à la délégation de grands de la cour en son monastère. En même temps, le portrait de la sainte constitue une preuve de son identité, qui doit confondre l'empereur. C'est pourquoi le portrait fut apporté à l'empereur qui leva les yeux et alors un éclair jaillissant de son image lui sauta aux yeux. Il reconnut la sainte et libéra le prisonnier. Ensuite il écrivit une lettre dans laquelle on trouve cette phrase: 'Pardonne-moi avec la compassion d'une mère et fais que Dieu nous soit favorable en usant de ta *parrèsia*'.³⁸

Il s'agit donc ici de la *parrèsia*, comme familiarité avec Dieu et sa faculté d'être entendue de Lui (celle qui a la *parrèsia* devant Dieu), qui autorise la violence de la sainte et sa libre parole à l'empereur. La présence de la grâce en Irène finit par être reconnue par l'empereur à la suite de l'illumination qui le saisit en regardant son portrait³⁹ et lui fit crier 'Dieu aie pitié de moi'.

La *parrèsia* des impératrices

Dans tous les exemples relatés l'impératrice va user de la *parrèsia* soit envers son époux soit envers un grand personnage. Cette thématique s'inscrit dans une perspective plus large concernant les impératrices byzantines, leur pouvoir et leur

influence pendant plus de mille ans en opposition avec ce qu'il en était dans l'Occident médiéval et le monde islamique La *parrèsia* des impératrices byzantines s'apparente certainement à la rupture du protocole que les auteurs masculins ont mentionné dans nombre de textes, qui témoigne de la relation des femmes avec l'autorité et le pouvoir, que l'on peut qualifier 'd'impériale'.⁴⁰

Dans une perspective assez proche, Audrey Becker a étudié le regard des Byzantins sur l'influence qu'exerçait l'impératrice sur son époux. Soit ils la dénonçaient comme mue par ses sentiments personnels et par conséquent de nature mauvaise, soit les conseils de l'impératrice s'inscrivaient dans une perspective christianisée où c'était Dieu qui inspirait les conseils de l'impératrice. Il y avait donc une concurrence entre la nature féminine de l'impératrice et par conséquent son incapacité politique et l'*augousta* inspirée par Dieu et devenant le 'vecteur de la volonté divine'.⁴¹ De toute façon ils admettaient que l'impératrice eut de l'influence sur son époux.

Or le premier exemple que nous présentons, assez ambigu, s'inscrit dans cette violence légitimée par Dieu. Il s'agit de la *parrèsia* de l'impératrice Théophanô, la première épouse de Léon VI, qui fut par la suite élevée à la sainteté, ce dont témoigne sa *Vie*. Le contexte est celui de l'été 883, quand Léon fut accusé de tentative d'assassinat sur son père Basile I. Celui-ci aurait songé à l'aveugler, mais Photius l'en dissuada ainsi que Stylianos Zaoutzès, qui, malgré les événements liés à l'inclination de Léon pour Zoé Zaoutzaina et l'éloignement forcé de celle-ci, avait conservé sa charge d'hétairiarque. Le jeune homme fut déshérité et emprisonné dans le Palais dit de La Perle qui avait été érigé par l'empereur Théophile à l'intérieur de l'enceinte du Grand Palais.⁴² Théophanô et la petite Eudocie, fille de Léon et Théophanô, auraient été recluses avec Léon, le temps de sa captivité, durant trois ans par conséquent. Peut-être n'est-ce qu'une invention de la seule source, qui mentionne ce fait. Peut-être fallait-il faire apparaître Théophanô sous un jour particulier, l'image d'une femme entièrement dévouée à son époux, qui le reconforte quand il a besoin d'aide et le sermonne, quand il perd courage:⁴³

Quant au bon seigneur Léon, reclus dans sa chambre comme dans une prison, il supportait la colère de son père comme une menace divine, comme un fils soumis il se livrait à son père jusqu'à la mort, il endurait d'être privé du nécessaire. En voyant sa femme et sa fille enfermées dans la prison avec lui et à cause de lui, il avait l'âme encore plus torturée, et levant souvent les yeux au ciel avec des larmes, prenant l'attitude d'un suppliant, en soupirant d'une voix gémissante, il priait Dieu de leur venir en aide. Son épouse, sainte Théophanô, pour ainsi dire la nouvelle Sarah qui soulageait Abraham dans tous ses tourments et Rebecca de la même manière, elle aussi oignant son vénéré et fidèle époux, elle s'efforçait de l'encourager, de lui témoigner sa reconnaissance et de se réjouir: plaçant sa propre peine et la souffrance de son enfant en second, élevant son âme par son amour viril, elle tentait de soigner la peine de son époux par des paroles de consolation.

On ne sait pas si Théophanô était vraiment emprisonnée avec Léon. Rappelons néanmoins qu'il s'agit du Palais de la Perle. Cet 'emprisonnement' de Théophanô

avec sa fille a été contestée par Shaun Tougher, qui pense qu'une telle intimité aurait eu une conséquence sur la progéniture de Léon. Un tel argument n'est pas sûr. L'auteur appelle Théophanô 'la nouvelle Sarah' ou 'Rebecca' réputées pour leur stérilité! Une autre interprétation est de penser que Théophanô et sa fille rendaient visite à Léon et restaient plus ou moins longtemps auprès de lui. On soulignera l'écriture masculine qui prête à la femme l'élévation de son âme grâce à son amour 'viril'.

La *parrèsia* de Théophanô se manifeste donc à travers les paroles de consolation, mais aussi par le sermon: 'ne nous décourageons pas'; par la violence de la situation: 'Restons soumis à ton père jusqu'à la mort' car Basile est le père par nature et *despotès* par la fonction;⁴⁴ par la proximité avec Dieu: Théophanô prie et est inspirée par Dieu;⁴⁵ par une franchise qui au fur et à mesure de son expression devient violence envers l'enfant gâté, l'enfant impérial, toujours éloigné des réalités de la pauvreté, de l'emprisonnement et de l'arbitraire des juges.⁴⁶

La violence de l'impératrice se manifeste également dans l'Éloge du père qui ne fait qu'imiter Dieu fouettant souvent son fils comme Dieu fouette ceux qu'Il aime: 'Qui aime bien, châtie bien. Et celui qui aime son fils le châtie à bon escient et lui donne souvent des coups de fouet' et, même plus, Basile est présenté comme l'homme de la prévoyance (*pronoia*) envers ses héritiers,⁴⁷ ce que nous savons faux, car il a privé Léon de sa couronne et n'a pas pris de décision ferme quant à la volonté de le laisser en vie. Les événements en décideront autrement à la veille de la mort de Basile, mais on n'y est pas.

La *parrèsia* est inspirée à l'impératrice par Dieu, car elle en connaît la finalité: un gouvernement juste, celui qu'exerceront Léon et Théophanô. Un gouvernement fait de compassion et de bienveillance envers leurs sujets, de paix et de justice.⁴⁸ Elle a effectivement vécu aux côtés de Léon jusqu'en 895–896, même si Zoé Zaoutzaina était la maîtresse officielle. Enfin, comme une nouvelle Isdandoul, elle soignait l'oppression de son époux, en référence à cette pieuse chrétienne de la ville d'Arbel qui soigne les martyrs captifs en soudoyant le gardien de prison et refuse de les lapider au moment de leur martyre.⁴⁹ Léon fut-il un martyr captif? Théophanô, celle qui soignait son mari et suppliait Basile de le laisser en vie?

En conclusion, une voix féminine qui parle avec autorité, celle de Théophanô dans des circonstances difficiles. La source est celle des proches de la famille des Martinakioi dont est issue l'impératrice, d'où un traitement partagé de la figure de Léon dans la *Vie* de Théophanô. La *parrèsia* de Théophanô est d'abord celle de la proximité et de la familiarité de la sainte avec Dieu. En second lieu, elle détient cette liberté de parler du fait de sa proximité avec Basile I. La *Vie d'Euthyme* mentionne, juste avant la mort de Théophanô (895), la *parrèsia* dont usa le moine Euthyme envers Léon VI concernant justement son dégoût et son rejet de Théophanô.⁵⁰ C'est alors que Léon relata la trahison de l'impératrice auprès de son père et les corrections que ce dernier lui infligea, ce qui évidemment rappelle avec une certaine ironie le 'qui aime bien châtie bien' de Théophanô, et Léon parodie la *parrèsia* de Théophanô en disant: 'Viendra un jour où j'aurai de la piété et de la compassion (envers son père Basile)'.⁵¹ En réponse de quoi Euthyme lui dit qu'il ne le reverrait pas avant qu'il ne se repentît.

La *parrèsia* de Zoé Karbonopsina, la quatrième épouse de Léon VI, nous est connue par la *Vie d'Euthyme*.⁵² Le quatrième mariage de Léon VI eut lieu en juin 906 malgré l'opposition du patriarche Nicolas Mystikos et fut célébré par un prêtre déposé plus tard par le patriarche Euthyme. Zoé fut ensuite proclamée *augousta* par Léon et le Sénat. Euthyme, élevé au patriarcat en février 907 après l'exil forcé de Nicolas Mystikos, refusa de proclamer Zoé *augousta* dans l'église de Sainte-Sophie, malgré l'intervention de deux sénateurs parents de l'impératrice, Himérios, alors amiral de la flotte, et le patrice Nicolas, et celle du patrice Samonas, alors tout puissant à la cour.⁵³

L'impératrice envoya deux lettres successives au patriarche le pressant par ses exhortations de la proclamer en l'Église. Si dans sa première réponse il affirma que c'était impossible, dans la seconde il ne présenta pas d'excuse.⁵⁴ Prise de colère, par le truchement de l'un des eunuques qui la servait, elle lui signifia:

Ignore-tu, père, ce que tu étais auparavant et à quel honneur tu t'es élevé grâce à moi? Et pourquoi ne me proclames-tu pas dans l'église si ce n'est que tu me traites avec mépris et que tu te moques de moi qui ai été unie à un homme qui est empereur et autocrator, moi qui ai eu un fils également couronné et porphyrogénète? Sache assurément que si je n'avais pas été cause de toute cette affaire, jamais tu n'aurais accédé au trône patriarcal. Veuille donc me proclamer, comme l'a fait le sénat. Car toi, comme ton prédécesseur, tu auras beaucoup à te repentir quand tu seras devenu inutile.⁵⁵

Euthyme s'en prit à son arrogance: 'Mais toi comment oses-tu me dire ces choses?' et à sa volonté de se mettre en avant, avant même son fils empereur: 'tu te comportes avec ostentation ayant de toi-même une idée plus haute qu'il ne convient'.⁵⁶ Il réitère sa décision irrévocable: 'Sache que jamais pendant le court séjour que je passe dans l'Église, ton nom ne sera proclamé ni inscrit dans les saints diptyques'.

Nous tenons ici un cas original: non pas la *parrèsia* de la femme impératrice envers son époux empereur, comme dans le cas de Théodora ou de Théophanô, mais de l'impératrice envers le patriarche. Il y a ici une confrontation violente entre l'impératrice et le patriarche, confrontation par l'intermédiaire d'un eunuque, non par écrit mais verbale. Des paroles échangées par un intermédiaire.

La *parrèsia* est d'abord celle de l'impératrice en tant qu'impératrice couronnée et proclamée *augousta* par le Sénat et l'empereur. Elle interpelle le patriarche de façon conflictuelle. Et elle menace le patriarche s'il ne la proclame pas en l'Église. Le patriarche du fait de sa fonction et de sa proximité avec Dieu use de la même franchise et de la même violence: tant qu'il sera dans sa fonction l'impératrice ne sera jamais proclamée en l'Église. Son nom ne figurera pas sur les diptyques.

L'impératrice change alors d'objet, puisqu'elle demande à ce que le prêtre qui a béni son mariage soit rétabli. Euthyme a déposé le prêtre que l'empereur avait mandé pour célébrer le mariage, un certain Thomas.⁵⁷ C'était là encore un affront pour l'impératrice. Aussi sa violence est identique: 'montre ton zèle à servir ton empereur sacré et nous-même et ton filleul Constantin Porphyrogénète'. Ledit prêtre sera à nouveau en charge quand Euthyme sera destitué.⁵⁸

La *parrèsia*, liberté de parole se pose ici pour Zoé, comme l'expression de son pouvoir impérial, et pour Euthyme comme le pouvoir qu'il a reçu de sa proximité de Dieu.

La *parrèsia* de Catherine de Bulgarie (1059) est plus proche de celle de Théodora, dans la mesure où elle s'adresse à son époux et l'invective sur sa lâcheté.⁵⁹

Catherine est une princesse bulgare, fille du tsar Ivan Vladisthlay (1015–1018) et de Marie. Après la mort de son père et l'annexion de la Bulgarie en 1018, sa mère était venue avec ses enfants, dont Catherine âgée d'une dizaine d'années, à la cour de Basile II. Ils furent rapidement intégrés au sein de la haute aristocratie. Il paraît que Marie fut élevée à la dignité de patricienne à ceinture. Catherine fut mariée en 1025 à Isaac Comnène, le fils d'un dévoué serviteur de Basile II, Manuel Comnène. C'est l'exemple d'une jeune fille noble d'origine étrangère dont une grande partie de l'éducation s'est déroulée à la cour byzantine. En 1057, lors de l'accession d'Isaac au trône, elle devait avoir cinquante ans comme son époux.

Quand l'empereur Isaac Comnène, ayant contracté une pleurésie, voulut prendre l'habit monacal au bout de deux ans de règne, car, disait-il, il n'avait plus l'envie ni la force de gouverner, l'impératrice commença par reprocher aux conseillers de l'empereur et à Michel Psellos, en particulier, le fait qu'Isaac veuille entrer dans un monastère. Isaac imputait quant à lui 'au caractère féminin' le fait de vouloir l'empêcher d'embrasser le monachisme et d'en faire porter la responsabilité aux autres plutôt qu'à lui-même. Catherine répondit alors à son époux en *augousta* qu'elle était:

Oui, dit-elle, je charge aussi mes épaules de tous les péchés que tu as commis et, si tu venais à te remettre, chose que je désire et réclame ardemment ou si au contraire . . . eh bien! moi, je prendrai ta défense devant le Souverain juge pour toutes les fautes que tu as commises. Et puissent tes actions être exemptes de reproches ! Pour moi je consentirais pour toi à être mangée par les vers, à être engloutie au plus profond des ténèbres, à être brûlée par le feu extérieur, et, après cela, tu n'as pas pitié de ma solitude! Quelle espèce d'âme as-tu pour te retirer loin du palais et nous laisser à moi le veuvage le plus accablant et, à ta fille, la plus dure condition d'orpheline ? Et cela même ne sera pas suffisant pour nous, mais suivront des malheurs plus terribles encore et des mains nous emporteront, non pas sans doute des mains bienveillantes, vers de longs exils, et peut-être décideront-elles un traitement plus dur encore et le plus cher de ton sang, un homme inaccessible même à la pitié le verra couler. Et toi tu survivras à ton changement d'existence, ou bien tu t'en iras de ce monde fort bellement, sans doute, mais à nous ce qui nous restera c'est une vie plus amère que la mort!

On note une proximité avec Dieu qui fonde la *parrèsia* de Catherine, qui est prête à se charger des péchés de son époux comme si c'était une évidence. La liberté de parole de l'impératrice est empreinte de violence. L'argumentation tient de la *parrèsia* de Théodora, qui souligne la lâcheté de l'empereur et ses conséquences irréversibles. Le litige entre les époux révèle une situation conflictuelle entre le devoir du souverain et la décision qu'il s'appête à prendre de quitter le

trône et si Catherine ne parle pas de ‘linceul’, elle évoque le fait d’être engloutie au plus profond des ténèbres. Il y a une concordance entre les discours des deux impératrices. La prédiction d’avenir est identique, c’est ‘une vie plus amère que la mort’.

À cette *parrèsia* répond exactement à la même date celle d’Anne Dalassène quand son époux Jean, frère d’Isaac Comnène, refuse le trône, lors de l’abdication d’Isaac (22 novembre 1059).

Pourquoi, mon seigneur, tires-tu l’épée contre toi-même et les êtres qui te sont les plus chers, sans éprouver de pitié pour leur jeune âge et sans te soucier de nous? Ne sais-tu pas que, si un autre s’empare de l’empire des Romains, il se hâtera d’exterminer notre famille dans l’idée d’affermir ainsi son pouvoir? Pourquoi commettre cette sottise de nous exposer nous-mêmes et nos enfants à un danger évident et repousser l’empire des Romains si convoité de tous? À quoi bon cette attitude nuisible, cette pusillanimité hors de propos? Si tu m’en crois, hâte-toi de te rendre aux conseils du *basileus* ton frère et prends le pouvoir!⁶⁰

Anne Dalassène n’était que la belle-sœur de l’empereur Isaac et à cette époque elle était en dehors de la grande politique. Néanmoins elle avait déjà l’ambition pour l’avenir de la famille Comnène et s’inquiétait de la menace que faisaient peser sur elle les Doukas. D’où son franc parler rapporté par Nicéphore Bryennios.

La similitude des deux discours n’a pas échappé à l’historien. L’hypothèse avancée est celle de l’emprunt remodelé de Bryennios à Psellos, les deux auteurs se référant à la tradition romaine et aux *Guerres* de Procope plus particulièrement.⁶¹ Ce sont des discours qui visent à persuader l’interlocuteur, ici l’empereur, dans une civilisation où la femme est réputée pour influencer son époux dont la libre parole est troublante et même dérangeante dans la logique des textes des onzième–douzième siècles. De plus, il s’agit de femmes qui tentent de convaincre leur époux de garder le pouvoir ou d’y accéder. Et cette liberté de parole proprement féminine est perçue comme telle par l’empereur Isaac: le ton de Catherine s’accorde parfaitement avec la violence de son propos et ne répond pas aux catégories classiques du discours rhétorique. Il va au-delà en invoquant le jugement de Dieu et la juste rétribution. Le ton d’Anne Dalassène, proprement féminin, oscille entre l’atermoiement face aux souffrances à venir et la brutalité de l’invective face à l’inertie de son époux.⁶²

Ce qui est nouveau et partagé par les deux femmes par rapport à l’époque antérieure, c’est la préoccupation de l’avenir de leur descendance. Leurs époux sont accusés d’en être par leurs décisions indirectement les fossoyeurs. À l’opposé de Théodora, elles se soucient davantage de leur lignée et de leur famille que de leur image.

Néanmoins se dessine une ‘économie’ au sens byzantin du terme dans le cheminement de Catherine, économie dont elle fait part à son époux, toujours avec sa liberté de parole:

Eh bien, dit-elle, installe comme successeur à l’empire l’homme le mieux intentionné pour toi et le plus dévoué, qui te conserve à toi, tant que tu vivras, l’honneur qui t’est dû et qui pour moi, soit tout ce que doit être un fils.⁶³

Le résultat en fut bénéfique puisque Psellos rapporte que le nouvel empereur Constantin X continua de lui rendre les honneurs dus à l'*augousta*:

L'impératrice voulait l'imiter et changer de vêtement aussitôt, mais je parvins à la retenir par de nombreuses exhortations qui furent plus puissantes que ses entreprises. Si bien que tant qu'elle sera encore au monde nous ne la priverons pas de l'acclamation impériale. Nous ordonnons à tous ceux qui sont sous ton thème⁶⁴ ce que la providence et l'économie de Dieu ont décidé pour nous, que tu réunisses autour de toi les plus nobles et les plus notables du thème et que vous fassiez l'acclamation suivante: 'longue vie à l'impératrice et *autokratorissa* des Romains, Catherine, et au grand empereur et *autokrator* des Romains, Constantin Doukas'.⁶⁵

La *parrèsia* de Catherine eut donc une issue originale puisqu'elle conserva son titre d'*autokratorissa* alors même qu'elle n'était plus l'*augousta* en fonction. Il est certain que le fait qu'elle n'ait pas eu avec son époux Isaac une descendance masculine (un seul fils, Manuel, mort avant l'accession au trône) a dû jouer pour beaucoup dans cet honneur qui lui est rendu par Constantin X Doukas.

La *parrèsia* 'populaire'

Il serait erroné de penser que la *parrèsia* fut uniquement réservée aux femmes les plus haut placées dans la société byzantine, aussi bien les impératrices ou les femmes appartenant aux plus grandes familles, comme si elles, seules, avaient le pouvoir de s'exprimer librement vis à vis des détenteurs du pouvoir, qu'ils fussent ou non leur époux. Je voudrais évoquer ici des exemples distincts qui ont en commun que les femmes en question appartenaient au peuple ou tout au moins à la moyenne ou petite aristocratie. Le premier exemple appartient à la grande histoire, les seconds sont au contraire anecdotiques.

Lors de la sédition d'avril 1042 quand Zoé, la Porphyrogénète, fut exilée par Michel V et dut revêtir l'habit monastique, il y eut une grande émotion parmi les femmes de Constantinople, qui sortirent de chez elles et se mirent à crier avec une liberté de parole proportionnelle à ce qu'elles ressentaient. Il faut dire que Zoé la Porphyrogénète, fille de Basile II, mariée à trois empereurs successifs, bénéficiait d'une indulgence remarquable au sein du peuple, malgré ses frasques. Suspectée d'avoir assassiné son premier époux, l'empereur Romain III, convaincue d'avoir reclus sa sœur Théodora, toute la Ville était au courant de son inconduite notoire au Palais avec son amant qu'elle installa sur le trône et qui régna sous le nom de Michel IV auquel mourant elle rendit visite au monastère des Anagyres en traversant la capitale à pied alors qu'il l'avait enfermée au sein du Palais et fait étroitement surveiller. Le peuple la respectait pour sa liberté. Elle était issue de la lignée macédonienne. Elle était la nièce de Basile II. Elle représentait un passé glorieux en même temps qu'elle était femme. Comme l'impératrice Pulchérie, fille d'Arcadius et sœur de Théodose II, au début du cinquième siècle, elle détenait la légitimité par le sang. C'est elle qui en adoptant Michel le Calfat, le neveu

de Michel IV, en fit un empereur. Michel V n'a rien compris à ce qui liait Zoé au peuple de Constantinople. Mieux encore, dans son exil et sa tonsure forcée, ce sont les femmes qui les premières épousèrent la cause de Zoé car elles se sentaient trahies à travers elle.

Et les femmes, comment raconter cela à ceux qui ne le savent pas? Pour ma part, j'en ai vu un grand nombre que personne jusque-là n'avait aperçues hors de leur gynécée, paraître en public, criant, se battant la poitrine et se lamentant d'une manière terrible sur le malheur de l'impératrice; et les autres telles des Ménades, se portaient en avant et constituaient contre le criminel une troupe non sans importance: 'Où peut-elle être, la seule noble d'âme et belle de figure? Où peut-elle être la seule libre entre toutes les femmes, la souveraine de toute la lignée, celle qui en toute légitimité a l'héritage de la *basileia*, celle dont le père était empereur, et empereur aussi le père de celui-ci et empereur encore celui qui a engendré ce dernier? Comment donc le vilain a-t-il osé porter la main sur la femme noble et se montrer capable à son égard d'une pensée telle que pas une âme au monde n'eût pu la concevoir?' Ainsi disaient-elles, et ensemble elles couraient avec l'intention d'incendier le palais; et comme il n'y avait rien pour les en empêcher parce que le peuple entier était déchainé contre l'âme tyrannique, d'abord elles prenaient position pour la guerre par petits groupes et comme par corporation, et ensuite c'est avec toute l'armée de la capitale qu'elles marchaient ensemble contre le tyran.⁶⁶

La liberté de parole des femmes fut suivie de l'action violente. Les termes 'la seule libre entre toutes les femmes', 'la *despotis* du *génos* tout entier' renvoient au statut de l'impératrice et à la seule détentrice du pouvoir réel. De même l'opposition entre 'le mal né et la bien née' rappelle que Michel V s'appelait 'le Calfat' car son père était sur les chantiers navals à calfater les bateaux! C'est grâce à la *parrèsia* des femmes de la capitale que la révolution s'est déclenchée.

Peu de choses sont connues sur la vie d'un couple ordinaire à Byzance, comme il en est d'ailleurs de la vie des gens du commun si ce n'est les incidents rapportés parfois sur l'agora sous une forme éminemment littéraire. Et pourtant la violence conjugale était aussi répandue qu'il en est aujourd'hui, l'expression multiple et l'auteur femme autant que mâle.⁶⁷ Notre dessein ici est de repérer le franc parler comme expression de la violence féminine, ce libre langage qui suscitait le risque pour celui auquel il était adressé de recevoir comme vraie la parole blessante.

Un premier témoignage nous est fourni par la *Vie de Philarète* campant un gentilhomme campagnard du 8^e siècle qui se défait progressivement de son bétail dans un vœu de pauvreté. Lorsque son épouse apprend qu'il a donné ses bœufs, elle le tance avec son franc parler:

Homme aux entrailles d'airain, certes tu n'as pas de compassion pour moi qui te connaissais mal, mais aie au moins pitié de tes enfants ! Mais comment pourront-ils vivre sans ces bœufs ? Mais toi, paresseux, tu en avais assez de

pousser ta charrue et tu voulais dormir à l'ombre: c'est pour cela que tu as donné ta bête, et non pas à cause de Dieu.⁶⁸

L'épouse de Philarète évoque le don de la paire de bœufs (*zeugarion*) qui permet l'attelage et le labour des champs et donc la vie de l'unité familiale. Elle incrimine sa 'paresse'. Son propos est violent et déclencherait la colère de Philarète s'il n'était pas un saint. Cet exemple fait partie de la violence conjugale des Byzantins et l'on constate que la liberté de langage est le moteur féminin de cette violence, qui aboutit paradoxalement à renforcer la sainteté de Philarète. Il n'oppose aucune résistance et ne cède pas à la colère, car il accepte comme vraie l'assertion de sa femme, qui renforce son image de saint homme.⁶⁹

Un récit plus détaillé nous est donné au douzième siècle. C'est le poème I des quatre poèmes transmis sous le nom de Ptôchoprodrome. Il est adressé à l'empereur Jean II Comnène.⁷⁰ Le texte se veut populaire. Il est écrit en langue vernaculaire. L'auteur se présente comme un homme marié avec quatre enfants, probablement un laïc. Soit issu d'une petite aristocratie, soit d'un milieu de petits fonctionnaires, un milieu semblable à celui dont était issu Michel Psellos et avec un itinéraire culturel très semblable, en tout cas constantinopolitain. L'auteur s'adresse avec familiarité à l'empereur: il semble bien que ses ressources dépendent de la cour. Pour faire sa requête à l'empereur, l'auteur se sert des propos de sa femme 'acariâtre' qu'il rapporte tels qu'il les a entendus. Les différentes scènes se déroulent dans l'*oikos* familial.

Voyons le vocabulaire employé par l'auteur pour introduire le franc parler de son épouse: il craint sa méchanceté (*mochtèria*), sa colère qui se traduit par sa bouche (*stoma*), c'est-à-dire, ses paroles, ses menaces et ses invectives (*apostrophè*), ses moqueries et ses injures quotidiennes (l. 26–43). Sa femme dit tout de sa vie, ouvre son cœur, dit tout ce qu'elle pense. Il s'agit donc bien de la *parrèsia* comme liberté de parole avec l'interlocuteur qui accepte de recevoir la vérité, même si elle est blessante. Des fondements de sa violence, elle en donne le compte-rendu exact depuis son mariage datant de douze ans (l. 48). Pour résumer le plus important, pas mal de choses concernent l'héritage, la dot de la femme, la dot à donner aux filles. Elle-même n'a reçu aucun vêtement, jupon, robe de soie, bijoux (bague, anneau ou bracelet) de son époux (l. 50–53). Elle énumère les vêtements qu'elle donne à son mari l'autorisation de vendre: c'est une partie de la dot que son mari a apportée (l. 44 *sq*). L'héritage paternel pour les enfants est pris en dérision. Les affaires patrimoniales de l'époux (*ta gonika sou pragmata*) pour la dot des filles ne sont pas énumérées (l. 62–66). Les différences de milieu des époux sont soulignées ainsi que leur richesse respective (voir la vaisselle en or et argent apportée par l'épouse). On a l'impression que le mari n'était rien qu'un pauvre comparé à l'épouse: on doit néanmoins rappeler que la contribution de l'époux devait être la moitié de la dot de la mariée. S'il s'agit de Théodore Prodrome, il n'était pas issu d'un milieu entièrement 'dépourvu'.⁷¹

L'épouse se qualifie de noble (*eugénè*). Elle était une Matzoukinè et, à l'opposé, son époux ne serait qu'un portefaix et un 'pauvre citoyen' (l. 69–70). Il y a certainement de l'exagération dans ce contraste des conditions, mais n'oublions

pas que tout cela est relaté et transmis par l'auteur lui-même qui peut très bien ajouter une pointe d'humour.

La maison où loge la famille était celle de la jeune fille (tu loges 'chez moi', dit-elle). On apprend au passage qu'elle était orpheline. Cette maison, le mari ne l'a pas entretenue: ni les murs, ni le plafond, ni le jardin. Or il y avait des marbres, une mosaïque au moins: ce n'était pas une mesure (l. 75–90).

Le ménage a toujours à l'heure où la supplique est envoyée à l'empereur 'des domestiques', même si la femme dit tout prendre en charge et prendre soin des affaires du ménage (*kouratôrissa*). Elle tisse les vêtements à la maison, ce qui était tout à fait courant dans les *oikoi* aristocratiques moyens. Elle s'occupe des comptes (l. 88–101). Enfin, même si elle affirme que son mari a tout dilapidé, elle le menace d'enfermer l'argent de sa dot, ce qui là encore correspond avec ce que nous savons: l'époux n'a que l'usufruit, il ne peut entamer la dot de sa femme, qui appartient aux enfants.

Donc nous avons un cas assez vraisemblable d'union où l'époux, le poète, devait être plus fortuné qu'il n'y paraît, mais qui a sans doute dilapidé son bien et n'a pas entretenu l'*oikos* familial. Et surtout il demande vraisemblablement à l'empereur une augmentation de sa *roga*, pour offrir, dit-il, un train de vie décent à la noble Matzoukinè qu'il a épousée:

Telles sont, Sire couronné, les avanies que m'a infligées cette femme querrelleuse, cette maudite souillon, quand elle m'a vu entrer à la maison, les mains vides. Aussi, si vous ne m'accordez pas votre miséricorde, si vous ne comblez pas de faveurs et de dons cette femme insatiable, j'ai bien peur qu'elle ne me fasse périr avant l'heure et que vous ne perdiez en la personne de votre Prodrôme, le meilleur de vos laudateurs.

(l. 268–274)

Donc les faits correspondent assez bien avec ce que nous pouvons savoir de la réalité byzantine, en particulier sur la dot, le train de vie d'une moyenne aristocratie, et aussi les cas posés par la dilapidation par l'époux d'une partie de ses biens, et l'on peut donc penser que la liberté de parole de la Matzoukinè transmise par le poète correspond bien aussi à la réalité byzantine de la femme dans son *oikos* familial vis-à-vis de son époux, à sa liberté de parole, la *parrèsia*.

On remarque dans les deux exemples que nous avons examinés de violence conjugale que l'objet en est la dilapidation du patrimoine. L'épouse use de sa liberté de langage pour dire la vérité qui est la faillite sociale et économique de l'unité familiale (l'*oikos*) si chère aux Byzantins.

Conclusion

Dans le colloque intitulé 'Women and Violence in the Late Medieval Mediterranean', les conférences ont mis l'accent sur la violence faite aux femmes, sur la violence de la femme de pouvoir (régente), la violence de la femme dans l'épopée et le roman, sur les stratégies des femmes face à la violence masculine ou encore

sur la criminalité féminine. Notre étude a mis en relief ce qu'il y a d'exceptionnel au Moyen Âge à Byzance, une liberté de parole (*parrèsia*) de la femme, par laquelle elle exprime sa violence. Il est certes singulier que les femmes byzantines aient tiré leur violence – qu'elles adressent aux hommes- de la rhétorique antique. La voix des femmes continue d'être rapportée par les contemporains, qui oppo- saient au franc parler des femmes la lâcheté de leurs époux.

Notes

- 1 Foucault 2016.
- 2 Socrate de Constantinople, *Histoire ecclésiastique*, VII, 15.
- 3 Damascius, *Vie d'Isidore de Gaza*, fr. 102, ed. Zintzen, p. 79.
- 4 Brown 1998, pp. 161–163.
- 5 Foucault 1984.
- 6 En particulier Malamut 2014a et Malamut 2014b.
- 7 Jean Cantacuzène III, 5, ed. Schopen, t. II, p. 36–37.
- 8 Jean Cantacuzène III, 5, ed. Schopen, t. II, p. 37. Il faut souligner les termes *d'apodeixis alêtheias*.
- 9 Jean Cantacuzène III, 5, ed. Schopen, t. II, p. 39.
- 10 Jean Cantacuzène III, 6, ed. Schopen, t. II, p. 45.
- 11 Georgiou 2019, pp. 122–127, 130.
- 12 Procope de Césarée, *Histoire secrète*, XV 3: 'Ni longueur du temps, ni satiété du châ- timent, ni manière de la supplier, ni menace de mort ne pouvaient la persuader de déposer sa colère'.
- 13 Eunape, fr. 28, 2, in *The Fragmentary Classicising Historians*, p. 43.
- 14 Becker 2017, pp. 392–393.
- 15 *Chronicon Paschale*, pp. 620–627 ; *The Chronicle of John Malalas*, XVIII, 71 (473– 477) ; Théophane AM 6024, pp. 181–186 ; Jean le Lydien III, 70, 1–6 ; Zacharie, *HE*, IX, 14.
- 16 Maraval 2016, pp. 137–146.
- 17 Procope de Césarée, *Histoire de la guerre contre les Perses*, I, 24, 7 ; Brubaker 2005, pp. 427–442.
- 18 Sur cette inversion des rôles masculin et féminin, voir Neville 2012, p. 73–74. Pour Procope, la gravité de la situation était telle qu'elle entraînait naturellement un boule- versement des genres, cf. p. 430. Voir aussi Herrin 2013, pp. 182–183.
- 19 *Les Nouvelles de Léon VI le Sage*, *Nouvelle 48*, pp. 188–189.
- 20 *Ibid.*, p. 189, l.17.
- 21 *Ibid.*, p. 189, l.20–24.
- 22 *Ibid.*, p. 189, l.11–14.
- 23 La véracité des propos de Théodora n'entre pas dans notre réflexion. L'important c'est que les Byzantins pouvaient le croire. De même, l'expression ésotérique de Procope se référant à la *basileia* plutôt qu'à la tyrannie comme le faisaient les auteurs anciens, Isocrate, Diodore et Plutarque, à propos de Denys de Syracuse, pouvait être comprise des Byzantins mais n'enlève rien à la violence de Théodora exprimée dans sa *par- rèsia* et peut être même au contraire la fortifie, cf. Kaldellis 2004, pp. 36–37 ; Evans 1984, pp. 380–382. Réemployé par Prokopia, l'épouse de Michel Rhangabé lors de l'usurpation de Léon V, le célèbre dicton n'eut pas le même impact sur son époux, qui fut alors considéré pour être un homme de paix, cf. Skylitzès 8. Voir Neville 2012, p. 75.
- 24 *Cor.* 2.3.12 (sur la transformation par le Saint-Esprit): ayant donc une telle espérance, nous vous parlons avec toute sorte de liberté. C'est aussi le courage des apôtres de dire la parole de Dieu à la foule, cf. *Actes* IV, 29: 'Maintenant donc Seigneur, considérez

leurs menaces, donnez à leurs serviteurs la force d'annoncer votre parole avec une entière liberté'.

- 25 *The Life of Saint Nikon*, p. 136.25–28.
- 26 Silvas 2006, pp. 20–21.
- 27 Syméon Magistros, 130.2–3, p. 216. La réalité historique de l'événement – soit la participation de Kassia de même que le rôle ou non d'Euphrosyne – n'intervient pas dans mon propos.
- 28 Silvas 2006, pp. 19–20.
- 29 Lauxtermann 2003, p. 267.
- 30 *Sur l'éducation grecque*, *Sticheron* pour l'office de la matinée du 13 décembre à l'honneur des martyrs Eustratius, Auxentius, Eugenius, Orestes et Mardarius.
- 31 *The Life of St Irene abbess of Chrysobalanton*. Introduction, pp. XXVII–XXXVIII. Voir Timotin 2010, pp. 251–260.
- 32 *Ibid.*, p. 88–90.
- 33 *Ibid.*, p. 90.
- 34 *Genèse* I. 30
- 35 *The Life of St Irene abbess of Chrysobalanton*, pp. 93–97.
- 36 *Ibid.* p. 97.
- 37 Ps. 144.19.
- 38 *The Life of St Irene abbess of Chrysobalanton*, p. 98
- 39 *Ibid.*, p. 96.
- 40 Cette originalité a été étudiée dans nombre d'études de Judith Herrin sur les impératrices, voir en particulier Herrin 2013, p. 2–9, 161–164.
- 41 Becker 2017, pp. 390–391.
- 42 *Vie d'Euthyme*, p. 41.1–3; *Vie de Théophano* ch. 12; Syméon Magistros, 132.24; *Vie de Basile*, p. 329; Vogt 1934, pp. 422–424; Tougher 1997, p. 137; Garland 1999, p. 110.
- 43 *Vie de Theophano*, ch. 13, p. 8, l. 13 sq.
- 44 *Ibid.*, ch. 14, p. 8, l. 28–31.
- 45 *Ibid.*, p. 9, l.1–10: 'Nous implorerons Dieu à l'aide, nous invoquerons pour intercéder en notre faveur sa mère et Théotokos, et nous invoquerons dans la prière tous les saints . . .'
- 46 *Ibid.*, p. 9, l.11–20: 'Ne sais-tu pas que tu as été oint dans les entrailles de ta mère comme empereur? Ne sais-tu pas que tu as été ceint de la couronne impériale? Tu sais que tu as été entouré de pourpre, de luxe et de flatteries dès la plus tendre enfance et que tu n'as eu aucune difficulté dans ta vie. Tu ne connais pas la peine, tu ne connais pas la pauvreté, tu n'as pas souffert la rage des juges, tu ne t'es pas rendu compte de l'irritation d'un maître, tu n'as pas connu la vie d'un pauvre, tu ne sais pas ce qu'est le besoin, tu n'as jamais ressenti ce que sont des portes de prison qui se ferment derrière toi, tu n'as pas eu l'expérience de la meurtrissure du fouet, et ta petite oppression te paraît difficile à supporter'.
- 47 *Ibid.*, p. 9.l.20–p. 10.l.1.
- 48 *Ibid.*
- 49 *Passio des Martyrs perses*, p. 503 l.5–8
- 50 *Vie d'Euthyme*, VII, pp. 39–41.
- 51 *Ibid.*, p. 40, l.8–9.
- 52 *Vie d'Euthyme*, XVII.
- 53 *Ibid.*, pp. 110–113.
- 54 *Ibid.*, p. 111, l.14.
- 55 *Ibid.*, p. 111, l.14–22.
- 56 *Ibid.*, p. 113, l.7.
- 57 Syméon Magistros, 133.49.
- 58 *Vie d'Euthyme*, XIX, p. 124.
- 59 Psellos, *Chronographie*, II, pp. 132–133.
- 60 Nicéphore Bryennios, pp. 80–82.
- 61 Neville 2012, pp. 72–73, 77.

- 62 *Ibid.*, p. 78: l'auteur utilise avec raison le terme 'd'assaut' pour qualifier la manière de parler d'Anne Dalassène à son époux.
- 63 Psellos, *Chronographie*, II, p. 133.
- 64 Il s'agit de l'époque où Psellos fut juge du thème des Bucellaires, résidant probablement à Ancyre, cf. Riedinger 2010, p. 23, n. 94.
- 65 Psellos, *Orationes Minora*, n°5, p. 18, 147–57; Limousin 2014, p. 168.
- 66 Psellos, *Chronographie*, I, pp. 102–103.
- 67 Messis and Kaldellis 2016, pp. 21–22.
- 68 *Vie de S. Philarète*, pp. 121–122.
- 69 Messis and Kaldellis 2016, p. 31.
- 70 *Poèmes de Théodore Prodrome, Poème à Jean Mauroïoannès*, pp. 38–47 (références aux lignes) ; trad. R. Bouchet, Poème 1: *De messire Théodore Prodrome à l'empereur Jean le Noir*. Voir Grosdidier de Matons 1976, pp. 501–504; Kazhdan and Franklin 1984, pp. 87–114.
- 71 Kazhdan identifie le Ptôchoprodrome à Théodore Prodrome, cf. Kazhdan and Franklin 1984, pp. 90–91, 105.

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9 Slavery and violence against women in Renaissance Central Italy

Loek Luiten

Over the course of two days in late autumn of 1487, a most peculiar legal dispute unfolded in the presence of the notary Spinello degli Altobelli, to whom we owe the record of this event.¹ In unravelling this case, this chapter analyses how two women from opposite ends of the social scale – a baronial noblewoman and a runaway slave – banded together in order to navigate a world dominated by male authority figures and, in doing so, defied the owners' recourse to channels of criminal justice as well as orders for the slave's return sanctioned by the government of Siena and even Pope Innocent VIII. Moreover, in explaining what motivations may have lain behind the decision to defy such figures of authority, this chapter unravels the fraught political context in which this case took place and forwards how this case might be interpreted in light of late-medieval attitudes towards slavery and violence against women. Finally, this chapter suggests how this remarkable case might reflect changes in the attitude towards slavery in late-medieval Italy and potentially supports the somewhat paradoxical argument that Europe itself witnessed a decrease in the acceptance of slavery at the dawn of the rise of the trans-Atlantic slave trade. Before addressing the wider political, social, and cultural context, let us commence with the case itself as it was recorded by the observing notary.

On the 30th of November 1487, a meeting was convened in the castle of Marta, an idyllic town at the mouth of the eponymous river that fed into the Lago di Bolsena. The castle's great hall became the stage for a legal battle. Indeed, with Altobelli's notarial act, we enter this battle *in medias res*. The main protagonists: on one hand, the wealthy Sienese banker Mariano Chigi and his business companion Perino di Francesco of Viterbo, represented in Marta by their procurator, and the defendant, Giovannella Caetani, the recently widowed wife of Pier Luigi Farnese and lady of Marta, on the other. The issue at stake: a property dispute. However, what makes this an especially salient case, is that it was no ordinary material property that was disputed, but an enslaved woman named Jacoba in the records, although this may have been an adopted Christian name and not her real one. Jacoba had ran away from her owners, Mariano Chigi and Perino di Francesco, to Marta, where, it is possible to conclude, she had found refuge. That with the notarial record we reach the climax of the dispute between Jacoba's owners and Giovannella Caetani is corroborated by the fact their procurator came to Marta

armed with a letter from the Pope himself, Innocent VIII, addressed to Giovannella containing an order, under pain of punishment, to return Jacoba.² Mariano Chigi had used his extensive connections as a banker to the pope to obtain an official papal brief in the expectation that this would have sufficiently intimidated Giovannella Caetani. However, the record indicates that Giovannella, after having carefully read the papal brief and attentively listened to the speech of Chigi's agent, bluntly refused to follow its order. If Jacoba had come to her territories of her own free will, what could she do about it, Giovannella replied. With these words, the meeting was adjourned.

Slavery in Central Italy

Although universally accepted, it needs reiteration that the enslavement of men and women involved violence and coercion. The enslaved made up a significant part of the medieval population globally, and, it must be stressed, also of Europe. This reality runs counter to the long-standing misperception that slavery was foreign to medieval Europe. In this framework Europe was dominated by feudal systems and had replaced slavery with serfdom. This interpretation, however, has long been denounced; most forcefully so at first by Charles Verlinden³ and Iris Origo,⁴ and for the especially tenacious endurance of female slavery by Susan Mosher Stuard.⁵ Although it has been argued that slavery in the Mediterranean, even if it involved victims from Muslim, Christian, and Jewish denominations, was a fate that largely befell men, whose strength was utilised in galley warfare, this case is a powerful reminder that there was a considerable demand for enslaved women for domestic work in the households of aristocrats and clerics of Renaissance Italy.⁶ Indeed, scholars of slavery are still uncovering the vastness of the slave trade network that connected the entire Mediterranean and that saw women and men from Tatar, Circassian, Ethiopian, Berber, Dalmatian, Greek, Spanish, and even British and Irish descent bought and sold in port cities far removed from their place of birth.⁷

Unravelling the diplomatic evidence related to only one node in this network, the one that connected Crimea and Egypt in the thirteenth century, Amitai shows how this involved interactions between political powers as far-flung as the Mongol Ilkhanate and Golden Horde, the Byzantine Emperor, the Republic of Genoa, and Mamlūk Egypt.⁸ In terms of numbers, for as much as any reasonable estimates of the numbers of slaves captured and traded in the Mediterranean can be made, Daniel Hershenzon asserts that, according to recent estimate, at least three million people were enslaved in the Western Mediterranean alone between 1450 and 1850, and that the trade created a lively market not only in the sale of slaves, but also a cross-denominational ransom system.⁹ More than merely stating the complexity and vastness of scale of the historical phenomenon of the Mediterranean slave trade, it is important to recognise how early Italy and Italians (as indeed the other Christian powers in the Western Mediterranean) had been integrated into this trade system. In turn, the participation of merchants from Latin Europe generated a market for slaves in the port cities that were these merchants' home base, a market

that moreover quickly extended beyond the tight-knit circle of merchants families as domestic slaves increasingly became household chattels in larger numbers of artisan households as well, as research on the Spanish city of Manresa shows.¹⁰ Italy, too, saw a steady increase in the numbers of slaves that inhabited its larger port cities. As in many places in the Mediterranean, slaves from the Black Sea area were by far the most numerous and popular in Italy too, often fetching higher prices than their black sub-Saharan counterparts, suggesting a preference for white slaves (and, indeed, female slaves, particularly those of great beauty). That said, there is evidence for a shift towards the import of greater numbers of African slaves during the fifteenth century.¹¹ Indeed, African slaves or manumitted Africans were a common enough and conspicuous sight that visual evidence of their presence is abundant, especially in the case of Venice's black gondoliers.¹²

It is, in fact, mostly through mention of their geographical origin that Italian sources provide insight into the legal status of the women and men on society's fringes. One of the problems that historians of slavery in Italy face is the inaccuracy of the denominators that were commonly utilised to indicate legal status, let alone skin colour or specific geographic origins.¹³ In Jacoba's case, she is described as *serva*, *ancilla*, and *famula*, all three ambiguous terms that were used for domestic slaves as well as maid-servants of free birth. What, according to my interpretation, indicates Jacoba's unfree status is the consistent use of the word *maura* – Moorish, a term derived from Mauretania – a denomination that could indicate Northern-African but, more probably, sub-Saharan African origins. Furthermore, Jacoba is initially spoken about as an object that needed to be returned to its legal owners and not given her own voice, even though she was present during parts of the proceedings. It is therefore all the more surprising that despite her unfree status, Giovannella relies on a line of defence that gave Jacoba agency. According to Giovannella, Jacoba's feet spoke for her.

Noble honour and defiance of direct papal orders

In order to understand Giovannella's line of reasoning and defiance of a papal order, it is worthwhile addressing her background. Giovannella was born the daughter of Onorato Caetani of Sermoneta, of the family of Pope Boniface VIII, and Caterina, from the Orsini Dukes of Gravina, of the family of Pope Celestine III and Pope Nicholas III, and therefore born into two of the most prominent baronial families of the Papal States and the Kingdom of Naples.¹⁴ In 1464, Giovannella was married, according to her station, to Pier Luigi Farnese, who hailed from another baronial family of the Papal States, a match that had been sponsored by the powerful cardinal Ludovico Trevisan.¹⁵ Giovannella is perhaps best known for her offspring, which included Giulia Farnese, the notoriously beautiful mistress of Pope Alexander VI Borgia, as well as her son Alessandro Farnese, later elected Pope Paul III.¹⁶ Foremost, Giovannella has also been regarded as the ruthlessly scheming mastermind behind the inexorable rise to power of the Farnese dynasty. It was supposedly she who shoved her young daughter Giulia into the pope's bed to advance her son's career. Moreover, in the sixteenth-century stories circulated

about a quarrel in which she supposedly had despoiled her son Alessandro of part of his inheritance in 1487 shortly after the death of her husband. The story also relates how Alessandro – the apple does not fall far from the tree – took revenge by locking Giovannella up in the dungeon of the castle of Marta. Not one to accept such treatment lightly, Giovannella invoked the protection of her powerful Roman relatives who in turn had her son Alessandro imprisoned in the papal fortress of Castel Sant’Angelo. There, Alessandro staged a daring escape with the help of some noble companions, a story that famously inspired Stendhal in writing his *Charterhouse of Parma*. The fact that Giovannella received her accuser, the notary Altobelli, and witnesses in the very castle where she was supposed to have lingered in a dungeon suggests that the story may have been concocted by the Farnese’s political opponents and repeated uncritically by historians.¹⁷ Reading letters written by Giovannella and her children one finds a woman deeply concerned about the well-being of her children, and one who was at the centre of both family life and noble sociability. She enjoyed surrounding herself with her daughters at her castle in Marta and organised the elaborate banquet in nearby Capodimonte when Pope Alexander VI and his court paid a visit that included Marta’s celebrated eels.¹⁸ Nonetheless, Giovannella was defiant enough to outright reject an order hailing from Pope Innocent VIII, theoretically the highest authority in Christendom as Christ’s Vicar on Earth.

One of the questions that arises is whether or not there was any pre-existing animosity between the legal parties. There is some circumstantial evidence that suggests this might have been the case. Mariano Chigi was a prominent Siense patrician and father of one of the more famous bankers and patrons of the arts, Agostino Chigi, whose fabulous wealth was lavished on an opulent riverside villa in Rome – known as the Farnesina after the Farnese acquired it – where such extravagant banquets were held that guests were invited to throw their golden and silver plates into the Tiber after every dish.¹⁹ Chigi had earlier tried to involve Siena’s government in retrieving his property. However, the Farnese and the Siense government were on notoriously bad terms after a regime change had brought the Noveschi faction, which included the Chigi, to power. This political revolution saw a regime ousted that was favoured by the Farnese and that had consisted prominently of Farnese relatives.²⁰ Indeed, this regime change also precipitated a rift between the government and the Captain-General of the Siense army, Ranuccio Farnese, who during his tenure had repelled an earlier coup d’état by the Noveschi.²¹ In turn, Siena’s government suspected the Farnese of harbouring the city’s political exiles and repeatedly lodged complaints about the danger this posed.²²

Apart from conflict in the political sphere, personal conflicts may also have played a role. The Chigi maintained close business ties to the Bellanti, another Siense banking family.²³ In fact, these ties were strengthened in 1488 when Mariano Chigi’s daughter, Eufrasia, married Andrea Bellanti – an occasion celebrated with a traditional *cassone* decorated by Antonio Pollaiuolo. Unsurprisingly, the Bellanti had also married into prominent banking families in Viterbo – Viterbo was one of the financial centres of the Papal States that attracted Tuscan banking families. As a result of these marriages, the Bellanti became involved in an inheritance

dispute with two of Viterbo's most prominent families, the Gatti and Tignosi, as early as 1460, when negotiations for Giovannella's marriage to Pier Luigi Farnese had only recently begun. Crucially, the Bellanti's Viterbesi relatives were long-standing clients of the Farnese family, Giovannella's in-laws, and hence leading Farnese men became personally involved in this dispute, which had already seen several episodes of prominent cardinals and bishops mediating between both parties and legal battles in front of the Roman court of justice as well as the papal court.²⁴ Indeed, this matter was only settled definitively in 1489 when Bartolomea Bellanti came to an agreement with Ranuccio and Angelo Farnese, thus two years after the dispute over the run-away Jacoba took place.²⁵ It is therefore entirely plausible that Jacoba's case was an episode in a larger conflict between the Farnese and Siense patricians, that she was a welcome pawn drawn unwittingly and unwillingly into a ferocious legal battle. Yet, that does not altogether explain the vehemence of Giovannella's refusal even in the face of direct papal orders.

It is plausible that Mariano Chigi's attempt to involve the Republic of Siena's government and Pope Innocent VIII in the case was counter-productive as it touched upon baronial sensitivities. Roman barons were extremely prickly about infractions on their jurisdictional powers, and wives and mothers were expected to defend the rights of their husbands and sons. In fact, with their husbands and sons often pursuing a military career abroad, the women were the ones dispensing justice in the lordships under their control. Such infractions occurred occasionally and several instances of Farnese wives and widows protesting survive in the records. For example, Battistina dell'Anguillara, Pietro Bertoldo Farnese's wife, wrote a forceful defence of her husband's jurisdictional privileges when Orvieto's podestà arrested one of her subjects for a murder on another of her subjects, firmly demanding his release in characteristically euphemistic language. Battistina wrote,

piglio admiration[e] no[n] piccola el podesta vostro vogli punire li maleficij facti i[n] le te[r]re di noi signori de qua p[er]ch[e] no[n] e sua jurisdictione ne officio.

'I am not a little bit surprised that your podestà wants to punish crimes committed in the territories of us Lords here, because it is neither [within] his jurisdiction nor his duty'.²⁶

Even if the Papal States' baronial elite acknowledged formal papal overlordship, they were wont to settle any legal disputes and criminal matters among themselves.²⁷ A woman like Giovannella Caetani, groomed from a young age to oversee the management of her husband's possessions and keenly aware of her status, would have perceived that giving in to papal interference would have set a dangerous legal precedent.

Finally, Giovannella must have been keenly aware that for all the threats of punishment and imprisonment contained in the brief, the Pope would have had very little power to follow them up with action. Only a year before, her family, despite several letters containing severe threats including excommunication and the loss of all property, had waged war against the Pope as members of an alliance that included several powerful baronial families, the Republic of Florence, as well

as the King of Naples.²⁸ The war had ended in abysmal defeat on the part of Innocent VIII. Any of Innocent VIII's threats to punish Giovannella were therefore empty bluster. Giovannella's expression of powerlessness – what was she able to do about Jacoba coming to her territories? – was in fact a thinly veiled assertion of her independence and authority as lady of Marta, and as a member of the Farnese family, by virtue of which she held her title. The subtext of her response was not so much about what she herself could do about Jacoba fleeing to Marta, but about what power anyone else had to prevent her from doing so, or to coerce Giovannella in giving up her full powers to decide in criminal matters. Giovannella's response was therefore a subtle reminder of Jacoba's owners' impotence in their dealing with her and her family.

The animosity that existed between the Farnese and the Sienese families that included Mariano Chigi's raise the possibility that Jacoba's flight to Marta was premeditated. Although Marta is located in the vicinity of Viterbo from where she could have fled, the lakeside town is neither the first, nor the most obvious, stop on the various roads leading out of Viterbo. One wonders about the possibility that Jacoba as a domestic slave knew of the various disputes between her owners' families with the Farnese. As a domestic slave, which in all likelihood Jacoba was, she may have had access to such intimate knowledge of family affairs that she could have overheard, or that were generally known by the servants. Anxiety of servants' and slaves' knowledge of disreputable affairs, and their loose tongues and tendency to gossip – ironically a perceived danger because slaves and servants were often the personal victims of sexual abuse that posed a risk to family honour – permeated Tuscan popular culture.²⁹ Although these tales more reflect contemporary fears than actual events, they provide some level of insight into the intimacy in relation to their owners in which these domestic workers were forced to work and the access to information this might have provided. Furthermore, Natalie Rothman³⁰ has emphasised the importance of social connections for runaway slaves to escape their lot. For a slave to successfully escape, they not only needed to run away *from* their owners, but also required a safe haven to run *towards*. One could hypothesise that Jacoba had gained some knowledge about her owners' standing with the Farnese, and had concluded that this raised the possibility of finding safe refuge in their territories. This may be what Giovannella subtly alluded to when she argued Jacoba came to Marta of her own free will.

Violence against women

Thus on the first day of the proceedings in Marta very little had been resolved. Giovannella Caetani had made it abundantly clear that even if she was a woman, she would not be brow-beat into acceding as power relations were strongly in her favour. The first day of the proceedings also provides insight into the vast set of actors involved, and their complicated mutual relations. Legally speaking, however, matters remained wide open as the argument that Jacoba had come to Marta of her own will made little sense in a context in which the servant-girl's unfree status denied her the right to make such autonomous decisions. The next

day the meeting was reconvened, now with the additional presence of Ser Simone of Lucca, *podestà* of Marta, and Ser Antonio of Sermoneta, Giovannella's horseman, who may have given Giovannella legal advice. Mariano Chigi and Perino di Francesco's agent again raised his accusations and ordered the return of their servant. This time Giovannella raised additional arguments in her reply that did lie on a legal-moral plane. Giovannella namely replied she would never consent to anyone's murder (*homicidii alicuius*), having heard from Jacoba that her owners wanted to punish and torture her (*torqueri facere*). Furthermore, Giovannella refused to send Jacoba away (*ip[s]am Jacobam mauram expeller[e] nolebat de suo territorio*) nor did she in fact want to restrain her to stay with her [*et apud se illam* (. . .) *inposter[ore] retiner[e] nolebat*). As a result, Chigi's agent could do nothing but protest and proclaim that Giovannella was now liable to prosecution by not following the order contained in the papal brief:

p[re]fatam d[omi]nam Joannella[m] in mora maiosam negligente recutente[m] et mala fide ac dolo lata beni et levissima culpam no[n] ad implemendo et tenta in d[ic]to brevi et in no[n] dando trade[n]do seu c[on]signando sibi peni d[ic]tis no[m]inib[us] d[ic]tam jacobam[m] mauram famula[m] seu serva[m].³¹

It is important to recognise how radical Giovannella's acts are. Jacoba herself was drawn into the dispute in such a way that she was transformed from an object of contention into a witness and interested party in the outcome. If that were not enough, her voice was heard and her arguments weighed into the equation that preceded the verdict on a level of equal if not superior importance as an aristocratic banker's claim to ownership. Indeed, Jacoba's arguments were considered so forceful they sufficed for Giovannella to overrule a direct papal order on the moral grounds that she could not assent to physical abuse.

That Giovannella overruled a papal order on the basis of the possibility of physical abuse requires some elaboration. After all, in a society that accepted very high levels of interpersonal violence, violence against women was especially ubiquitous and an omnipresent part of the daily lived experience of women from all strata of society. In war, women were particularly vulnerable targets. Rape was an inhumane tool utilised by soldiers to dishonour a city that was being sacked, though Stephen Bowd also rightly emphasises the myriad other roles that were adopted by women in times of war, including those of peacemakers. In the domestic sphere, women were brutally murdered on the suspicion of adultery so that male honour might be salvaged, though frequently other motivations played a role as well.³² Such was the tragic fate that also befell one of Giovannella Caetani's own daughters, Geronima Farnese, when she was assassinated by her stepson while pregnant with another potential male heir in 1505.³³ Other forms of domestic violence such as battery, denial of food, or incarceration, were frequently used against women – and on rarer occasions by women – as Renaissance Italy's judicial records vividly attest.³⁴ Nevertheless, there were scores of women, above all domestic slaves, who were denied access to criminal justice and if they have entered the court records they figure mostly as accused criminals or as disputed property.

Precisely this group of servant girls and domestic slaves was at risk not only of physical violence, but also sexual abuse.³⁵ Anna Esposito relates a tragic case that is testimony to how oppressive life for the unfree could be. Esposito addresses a case in which a Neapolitan nobleman, Guglielmo, sexually abused a 16-year-old girl that had been placed under his protection by some distant relatives, as well as another 16-year-old enslaved 'Ethiopian' girl.³⁶ Both girls had become pregnant, but the Italian one was at least offered the (albeit decidedly unattractive) option of marrying Guglielmo so that she might escape corporal punishment for seducing him, a classic example of Renaissance victim-blaming. For obvious reasons she refused and, in all likelihood, rather underwent corporal punishment than be betrothed to her abuser. Guglielmo escaped punishment by promising to pay forty ducats towards the girl's dowry and taking monastic vows. Of the Ethiopian girl we hear nothing, and it is safe to assume she had no access to the (nominal, difficult to enforce, and still highly unfair) protection of the law that her fellow victim of free status had. The unfree had no protection in the face of abuse and violence inflicted on their bodies, and, to make matters worse, this situation with few exceptions extended to their children, even if they were sired by men of free status or their owners.³⁷ Whether it was physical violence, sexual violence, or even the threat of either, it is safe to assume that this lay at the heart of Jacoba's decision to flee from her owners. The echoes of Jacoba's fear for reprisals and abuse are clearly audible through Giovannella's measured response.

'She would never accept the potential murder of Jacoba, having heard from her that her owners wanted to inflict torture on her as a punishment'.³⁸ Legally speaking, this was an insufficient argument. After all, Jacoba was Mariano Chigi and Perino di Francesco's property and they were free to punish her, however abject and cruel. However, it does show a sense of the Christian duty of charity and a sense of fairness that Giovannella may have developed during her long years governing her husband's patrimony and dispensing justice in their lordships. Giovannella's principal argument also subverted Innocent VIII's order to return Jacoba. How could the supreme pontiff accede to murder and violence? Violence directed at women may have also been an entry point that allowed Giovannella to empathise and discern a shared humanity, of seeing the human in someone who, legally speaking, was property. After all, had this case been a more straightforward example of baronial hauteur, of an aristocratic assertion of independence from papal authority, the meeting could have concluded on the first day without any additional proceedings or the raising of additional arguments. There would have been no reason to hear Jacoba's voice as it would have had no impact on solving the opposition between noble and papal judicial superiority. Yet Giovannella did decide to hear Jacoba's side of the story and to use it as part of her line of defence. This suggests that the events can be read as a case of female solidarity in a society that distinctly disadvantaged them at all levels of the social hierarchy, and often resorted to violence as a form of coercion.

Additionally, Giovannella's ability to see the human nature of an enslaved girl and treat her as such may be reflective of changes in attitudes towards slavery

in fifteenth-century Italy. Such cultural shifts have been overshadowed by the development of the Atlantic slave trade, but especially Sally McKee³⁹ and Mary Gallucci⁴⁰ have cautioned against seeing the Atlantic slave trade as a direct continuation of practices common to the late-medieval Mediterranean. First of all, the Atlantic trade gave rise to a racialised ideology of superiority specifically directed against black Africans in a way that the Mediterranean trade had not. Religion was and remained the crucial point of distinction that determined whether someone could be enslaved throughout the Mediterranean in the medieval and early modern period. Moreover, paradoxically the rise of the Atlantic slave trade ran parallel with a gradual decrease in the acceptance of slavery in Europe itself, the origins of which development McKee and Juliann Vitullo place in the later Middle Ages and explain at the hand of the presence of ever more progeny from female slaves and their masters and the increasingly frequent emancipation of this progeny as well as their mothers by their masters.⁴¹ Bearing this in mind, Giovannella's attitude towards the denial of agency to the enslaved and clear distaste for the violent practices through which female domestic slaves were subjugated may reflect these wider societal changes in attitude towards slavery. If we are to interpret the events in such manner, opposing visions of the enslaved clashed spectacularly during the judicial proceedings that were recorded by the notary Altobelli, and Giovannella Caetani used her elevated noble status to shield Jacoba in a way that she was able to maintain her own honour and sense of independence, as well as prevent the brutal maltreatment of the enslaved girl who was so determined to escape her abusive owners.

Notes

- 1 *Notarial Register Spinello degli Altobelli*, ff. 5^v–7^r.
- 2 *Notarial Register Spinello degli Altobelli*, ff. 6^r.
- 3 Verlinden 1955–1977.
- 4 Origo 1955.
- 5 Mosher Stuard (1995).
- 6 Cossar 2017; Salzman 2013; McKee 2008; Boni and Delort 2000.
- 7 Barker 2019; Amitai and Cluse 2017; Hershenzon 2017; Phillips 2014; Guillén and Trabelsi 2012; Davis 2009; Davis 2007; Earle and Lowe 2005.
- 8 Amitai 2008.
- 9 Hershenzon 2016, p. 61, 2014, pp. 11–12.
- 10 Fynn-Paul 2008.
- 11 McKee 2013, p. 289.
- 12 Lowe 2013.
- 13 Epstein 2001, pp. 16–61.
- 14 Shaw 2007; Caetani 1927–1933.
- 15 Trevisan, L. (1462), *Letter to Caterina Orsini Caetani*; Caetani 1926, 90, 107–108.
- 16 Cussen 2020, pp. 35–36; Luiten 2019b, pp. 35–36; Gamrath 2007, p. 23.
- 17 Luiten 2019b.
- 18 Luiten 2019a, pp. 351–352.
- 19 Barbieri 2014; Taylor 2005.
- 20 Gattoni 2010.
- 21 Butters 1995.

- 22 Shaw 2000, pp. 161–218.
- 23 Daniels 2014, p. 406.
- 24 *Bethrothal Bartolomea Bellanti and Nicola detto Baccio Tignosi* 1479, unfoliated; *Inventarium mutilum jurium et scripturarum domui farnesia et ducibus Parme pertinent.*, ff. 125^v–127^r.
- 25 *Inventarium mutilum jurium et scripturarum domui farnesia et ducibus Parme pertinent.*, f. 127^v.
- 26 Dell'Anguillara (1485), *Letter to the government of Orvieto*.
- 27 Shaw 2015, pp. 177–183; Carocci 2010, pp. 34–38.
- 28 Innocent VIII (1485), *Letter to Ranuccio Farnese and Gentile Virginio Orsini*, f. 137^r; Innocent VIII (1486), *Letters to Ranuccio Farnese, Pier Luigi Farnese, and Angelo Farnese*, 193^r; 205^{r-v}; 274^v–275^r.
- 29 McKee 2008, 2013.
- 30 Rothman 2012.
- 31 *Notarial Register Spinello degli Altobelli*, f. 6^v.
- 32 Bowd 2018, pp. 99–111.
- 33 Dean and Lowe 2017; Zapperi 2013; Cohen 2004.
- 34 Esposito 2015; Dean 2004; Cohn 1996; Ferraro 1995.
- 35 Lansing 2018; McKee 2013.
- 36 Esposito 2015.
- 37 McKee 2004.
- 38 *Notarial Register Spinello degli Altobelli*, f. 6^v.
- 39 McKee 2013.
- 40 Gallucci 2015.
- 41 Vitullo 2019, pp. 149–193; McKee 2013; McKee 2008.

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10 ‘With her aid, direction, and fervor’

Women and the politics of lordship in fourteenth-century Tuscany¹

Joseph Figliulo-Rosswurm

1.

Women are relative rarities in the records of criminal justice, and the androcentrism of such sources makes this doubly so for the medieval period.² While women appear in the criminal records as both victims and offenders, the role of women in acts of intimidation has received less attention.³ This article showcases three cases of women engaging in such violence to understand the logic of their action and its reception by the courts. Records from the tribunals of the Executor of the Ordinances of Justice, Capitano del Popolo, and the Podestà are the core evidentiary basis for the investigation, which also draws on treasury records and legislation. Because consistent documentation for the Florentine public tribunals does not survive before 1343, the article focuses on the mid-fourteenth century.

The contribution argues that these cases, while limited in scope and number, indicate that women occasionally engaged in the sort of targeted violence usually seen as a male preserve. This argument makes two points: the need to, when evidence allows, understand the local context for female offenders’ violent endeavors, which in turn requires jettisoning assumptions regarding the normative marginality of women in the historical records of the state’s repressive apparatus. Second, that Florentine females’ participation in direct action modifies the traditional notion of female exclusion from public life.⁴ Female magnates’ use of calculated harassment underscores their role in the informal politics of presence that shaped later-medieval communities’ local hierarchies. The case of elite female Florentines supervising and instigating violence against lower-status neighbors and subordinates is a limited yet non-trivial exception to the invisibility of female agents in the history of violence. The article employs a short-term method accounting for the specificities of each case discussed, suited to the sources’ fragmentary nature.⁵

The article begins with a look at strictures against women in Florentine statutory law and medieval Italian political culture. It then summarily introduces the sources used before looking at investigations for violence (assault, arson, property destruction) featuring female perpetrators. Three cases are highlighted in particular. Their different outcomes shed light on the myriad dynamics shaping female violence and its institutional reception. The conclusion reflects on what this Tuscan case study contributes to broader discussions concerning women and violence.

2.

Historical polities – their institutions, legitimising media, personnel – were shot throughout with gendered assumptions which they modified, reinforced, or accommodated.⁶ For medievalists, interconnections between gender and political cultures emerge in a variety of contexts.⁷ Normative marginality must be understood in relation to female centrality to other aspects of social life, particularly in the economy. Formal political exclusion and the patrimonial nature of property-holding can obscure the significance of female asset-management for families and businesses, particularly on the part of wives, widows, and mothers.⁸

Women existed in a problematic relationship with public justice. The statutes of specific city-states, not the *ius Commune*, generated female exclusion.⁹ The Florentine statutes of the Capitano del Popolo and Podestà illustrate this point regarding prisons and public buildings. Rubric 28 of the Capitano's statutes (1322) banned all women from the commune's prisons because of 'many enormities'.¹⁰ Women violating this statute could be convicted on the testimony of only one witness, fewer than the two–three required in most criminal investigations. This rubric also banned the imprisonment of women because of debts, with the exception of the wives of fugitive debtors.¹¹ A separate prison housed female inmates.¹²

Women were furthermore barred from entering the Palazzo de' Priori and the buildings housing the Podestà, Capitano del Popolo, and Esecutore.¹³ Fines applied both to women who violated this stricture and the officials who permitted them to do so. Women were allowed to answer accusations made against them or provide testimony, but a notary was to take this information down outside the doors of the court's palace.¹⁴ Women could also testify concerning crimes done to their family members. The rubric emphasised that legal representatives (*procuratores*) should, whenever possible, appear and speak for women. The rubric further stipulated that it could not be annulled by future legislation.¹⁵

Cultural attitudes regarding gender-appropriate public behavior shaped the actions of individuals and the institutions that mediated their conflicts.¹⁶ As the thirteenth-century communes expanded state capacity their ruling groups also embarked on efforts to reshape citizens' conception of proper public behavior.¹⁷ Most famously, many city-states made efforts to constrain and limit vendettas, incorporating peace-making and arbitration into public judicial procedure.¹⁸ Simultaneously, the popular communes of the later thirteenth century popular communes, such as Bologna and Perugia, expanded their police contingents and passed strictures on weapons possession.¹⁹ Florentine statutes on female-exclusionary spaces should be understood as specific instances of this broader trend.

Urban communes' efforts to halt violence included media – preaching, treatises, visual arts – that modelled (in)appropriate behavior on the part of men. Thus, Orvieto repeatedly banned public lamentations at funerals, recasting a central aspect of funeral rites as a threat to the city's good and peaceful order.²⁰ Outbursts of rage and excessive violence likewise occupied an ambiguous place in high-medieval Italians' conception of appropriate behavior. Avenging slights to oneself and kin was a central duty of males in a society based on honor. Yet thirteenth- and fourteenth-century

writers and politicians recast such performative, violent masculinity as a threat to public order.²¹ The blind rage of men seeking vengeance threatened social stability and the commerce central to urban prosperity, just as the unrestrained passions and slander of women threatened social décor and public morality. The same sort of activity could thus be emblematic of proper masculinity – from the perpetrator's perspective, and likely that of at least some of his audience – and as indicative of a lack of self-restraint unbecoming of an adult male and threatening to the city's good order. The ambiguity of such actions is reflected in the affective-legal language of denunciations of elite violence. Magnates are often described as acting *'a caldo e con fervor'*: 'with ardent passion and rage', as one might translate the Latin, or *'irato animo'*, 'with an enraged spirit'.²² Such actions could also, however, be carried out *'appensatamente et studiosamente'* – 'intentionally and studiously'.²³ This indicates how outbursts of violent rage were also tactical displays of commitment to one's rights and honor.

Surviving material from the criminal courts enables limited but close analysis of how such attitudes and language inflected institutional activity. The cases discussed below come from the criminal court of Florence's *Esecutore degli Ordinamenti di Giustizia* and the *Podestà*. These courts began investigations in several ways, but usually based on written or in-person denunciations or accusations. Source survival, the documentary conventions of judicial personnel, and the shifting parameters of Florentine territory constrain what can be reconstructed of the protagonists and their relationship in most of these criminal investigations. This does not negate their value for understanding how the gendered aspects of political culture shaped surviving documentation and judicial process. When more can be reconstructed of a particular crime or its context, as the two other cases indicate, they indicate the active involvement of women in the direct action that enforced feudal claims in the Florentine countryside.

3.

This section considers three cases that highlight different aspects of the social politics of criminal investigations of female violence. The first two concern the actions of female members of magnate families – a sub-section of the *comunes'* elite that their rivals, the *popolo grasso*, identified as a particular threat to public order.²⁴ The third concerns a rural woman of ambiguous socioeconomic background.

Spoiano

The first case demonstrates that elite females engaged in the violent assertion of familial rights usually seen as a male preserve.²⁵ Unlike many criminal investigations, it can be traced from an initial denunciation to its conclusion with the offending magnate's family paying a fine. This was in itself a rare outcome in anti-magnate investigations.²⁶ After nightfall sometime in November 1348, Lapa de' Rossi and her retainer Piero approached a house belonging to a certain Francesco

di Tone's orphans in the parish of Spoiano, about 28 kilometers south of Florence in the Val di Pesa.²⁷ There, they forced entry, and an ugly scene ensued:

. . . il decto Andrea in terra gicto et percosse con sospinti et percossi et fuore dela decta casa dei decti fanciulli pupilli s'il caccio per forza con grande turbamento e molesta dicendo la decta mona Lapa e il decto Pietro a caldo dela decta mona Lapa 'va fuori da questa casa perocche non volglio che tu ci stia ne tenghila per li decti fanciulli pupilli'.

' . . . the said Andrea fell to the floor and [Pietro] struck him with pushes and blows and drove him with great disturbance and harassment out of the house of the said pupils, [with] the said mona Lapa and the said Pietro, with mona Lapa's support, saying "get out of this house, for I don't want you to remain here, not for you to hold it for the orphans"''.²⁸

Eight of the eleven witnesses whom the denouncer cited appeared in court. Seven confirmed the denunciation's account of the affair, either through personal knowledge or claiming that common knowledge in the area held it to be so.²⁹ The Executor forwarded the case to the Podestà for a verdict. Lapa was fined two hundred *fiorini piccioli*.³⁰ In a rarity for magnate prosecutions, documentation confirms that her family actually paid this fine. On 17 February 1349, her kinsman Guerriero di Tribaldo de' Rossi paid 150 *lire* to the commune's treasury.³¹ There is no indication that Andrea and the orphans received compensation, or that Francesco's children returned to the Spoiano house.

Another 1349 denunciation reveals further aspects of the affair. On 13 March, about a month after her fine was paid, the Executor received another denunciation against Lapa. This may be a second denunciation of the same attack on Andrea, yet it is possible that it reports a separate attack featuring the same protagonists. Piero, Lapa's enforcer, is reported as attacking Andrea outside the house of Francesco's heirs, on the main street passing through Spoiano. None of the direct dialogue of the previous, successful denunciation is reported, and the attack likely occurred in daylight. Denunciations for crimes that occurred after nightfall – including the first denunciation of Lapa – almost always mention this fact, since nighttime crime incurred a double penalty.³² The Executor's judge dismissed the case peremptorily, without summoning witnesses.³³

The case of Lapa and Spoiano can be understood in two registers: the local politics of the Val d'Elsa, and the procedural norms of the Florentine courts. If the second denunciation was a duplicate – there are other instances in the Executor's records of such copies – it perhaps indicates the desire of the *Spoianese* to active the criminal tribunals against Lapa and Piero. This would explain the witnesses' near-unanimous testimony about the attack. If it reported a separate attack around the same time, it may indicate an ongoing effort on the Rossi family's part to harass and intimidate Andrea and Francesco's heirs, preceding or following the nighttime expulsion. This leads us to motivation, and thus to local politics centering on elite familial strategies and communal responses to these.

The motivations behind crimes reported to the Florentine tribunals are usually opaque. When it is possible to reconstruct pre-existing relationships between victims and victimisers, however, it is clear that disputes over property and local status generated many of the disputes in the Fiorentino.³⁴ Lapa's attack(s) on Andrea fit this pattern. The second denunciation describes Andrea as a servant (*famulus*) of the Franciscan chapter in nearby Barberino Val d'Elsa.³⁵ The Franciscans would be a sensible option for a local, himself incidentally named Francesco, to entrust custodianship over his estate and children.³⁶ The property was likely prosperous: the denunciation notes the house included an oven, garden, and courtyard.³⁷ This is the sort of rural holding a magnate family might target, particularly in the unstable conditions following the plague's 1348 visitation.

Since Lapa's denunciation and conviction were for the assault(s) on Andrea, the underlying problem – disputed ownership of the house, and the relationship between the Rossi, Barberino's Franciscans, and Francesco's heirs – was left to one side. The tendency of the civic courts to break up explosive relationships and disputes into manageable, discrete episodes, which Massimo Vallerani has identified in contemporary Bolognese procedures, could punish malefactors without improving the situation for their victims.³⁸

How typical was Lapa's action? It is the only case I have identified of a Rossi female participating in a violent assault, but the location and nature of her action fits a well-established pattern. The family was one of the most-denounced magnate clans of the 1340s. While a limited number of kinsmen in a given lineage were the worst malefactors, Lapa's actions indicate how other members of a magnate family, including women, could initiate direct action to assert patronal or patrimonial claims – or, seen a different way, magnate women engaged in the same sort of brigandage as their kinsmen.³⁹ This is unsurprising given the feudal origins of many magnate families. Depredations concentrated in the triangle Claudia Caduff identified in Florence's southern *contado*.⁴⁰ In the Chianti, the Rossi, Gherardini, Bardi, and Monterinaldi, elite Florentine families with deep regional ties, waged a protracted struggle with locals and the commune to (re)assert contested signorial rights.⁴¹ Spoiano and its environs are in the center of this triangle. Lapa's actions thus constituted one episode in a deeper history of her family's relationship with local society and power centers such as the Franciscans of Barberino. Framed in terms of the gendered political culture described above, the actions of female magnates such as Lapa embodied a twofold menace to the social order. Instigating the sort of direct action that demonstrated commitment to one's rights and social standing and which also threatened the commune's *bonum et pacificum statum*, Lapa embodied the anti-social menace that the communes' legislators perceived in women as such, and the magnate class. A powerful woman with an entourage could easily disrupt the possessions and tranquility of Florentine subjects, even when she was convicted and fined.

Buiano

The second case concerns the upper Valdarno, a zone contested between Florence and Arezzo until the former purchased the latter in the 1380s from the French

warlord Enguerrand de Coucy.⁴² It involves two prominent Florentine families: the Villani merchant-chroniclers, and the Pazzi. Buiano clusters around an extant eleventh-century parish church of S. Maria along the upper Arno, in a traditionally feudal zone: the Pazzi del Valdarno, Conti Guidi, and Ubertini were established presences in the area.⁴³ The Pratomagno massif and the Appennine foothills encircle it to the north and west, making it an outlier of the Florentine domains. Formerly under Guidi control, Buiano submitted to Florence sometime in the thirteenth century, and sent troops to the bloodbath of Montaperti.⁴⁴ Following this defeat, the Pazzi del Valdarno usurped communal properties in the region, generating complaints to the Florentines during the second popular regime (1293–1295).⁴⁵ The *popolo*'s efforts to reassert Florentine power in the area took two forms: establishing planned settlements (*terre nuove*) and extending Florentine jurisdiction into the area to hear complaints and make inquests. The Florentines established S. Giovanni Valdarno in 1296. It quickly became a significant sub-regional commercial center and administrative hub.⁴⁶

Efforts to bring the countryside into Florentine public justice's ambit sought to realign allegiances and appeals to the commune. Yet times of disruption, such as the first plague visitation engendered, allowed local elites to settle affairs in their own manner. An episode from spring 1349 illustrates how magnate females' violence fit within pre-existing relationships and property-owning webs connecting rural hamlets like Buiano with Florence's mercantile and feudal elite. In May, Monna di Messer Francesco de' Pazzi embarked on a campaign of harassment and intimidation centering on a *palazzo* belonging to Giovanni Villani. The Villani villa lay near Buiano's mill and abutted other family holdings. Giovanni's brother and continuator of his chronicle, Matteo, held possession of the estate following his brother's 1348 plague death. Against Matteo's will, Monna and her accomplices, Marchesina and ser Bernardo, broke into the house, destroying his possessions and knocking down a wall, 'to . . . Matteo's damage and harm' ('. . . in dompno [sic] e preiudicio del decto Mattheo').⁴⁷ The denunciation closed by appealing to the Executor to enforce the Ordinances of Justice against Monna and her partners in crime. Two of five witnesses cited testified. Matteo's son and chronicle-continuator, Filippo, claimed that *publica fama* confirmed the denunciation, while Matteo's servant, Simona di Saninello, claimed eyewitness knowledge of the attack.⁴⁸ The case was dismissed, however, when the other three witnesses denied all knowledge.⁴⁹

The Villani family's role as medieval Florence's foremost chroniclers and their activity among the city's first-level banking and mercantile elite enables reconstruction of the conflicts shaping Monna's actions. Giovanni and Matteo were factors in the Buonaccorsi company, a major Florentine banking firm.⁵⁰ Both suffered when the *compagnia* collapsed in 1342. This bankruptcy is hinted at in the abutment clause describing the Villani property. It bordered on another Villani holding in the possession of Giovanni's heir 'or rather, of the Buonaccorsi creditors' ('l'erede di Giovanni Villani overo creditori di Bonaccorsi . . .').⁵¹ This inquest indicates how holdings in remote rural settlements undergirded the Florentine economy.

The Villani brothers' financial woes followed upon a major familial rift. In 1331, the family patriarch Villano di Stoldo favored Matteo and Giovanni over their brothers Filippo and Francesco in a dispute concerning the disposition of familial assets.⁵² In 1341, Francesco initiated a lawsuit against Matteo for funds tied up with the Buonaccorsi company. His legal representative was his nephew, ser Bernardo di Giovanni.⁵³ This is the Bernardo who accompanied Monna in the Buiano house-breaking. His willingness to serve as his uncle Francesco's representative against his other uncle, Matteo, indicates a pre-existing animosity towards Matteo and perhaps Bernardo's own father, Giovanni. That he acted with the Pazzi against Matteo indicates a desire to recover some of the family wealth, perhaps before Buonaccorsi creditors claimed it to cover arrears; Matteo's wife had already been imprisoned in lieu of her husband because of debts, in 1342.⁵⁴

How can we explain Monna's involvement in this dispute? It is possible that her branch of the Pazzi aligned with Giovanni and Matteo against their brothers in the dispute over family assets in the wake of Giovanni's imprisonment and death and the wider destabilisation that the plague engendered. The Pazzi, like the Villani, aligned with the Black Guelfs in the great civil war that engulfed Florence in 1301–1304.⁵⁵ The harassment Monna carried out demonstrated Matteo Villani's inability to protect his property, while Bernardo's mobilisation of a major magnate family's aid registered his commitment to pursuing his grievances against his uncles and their patrimony. The scenario also suggests an effort on the part of Bernardo and the Pazzi to test Matteo's resolve in a time of uncertainty. In the wake of the mass death event that was Tuscany's first experience with bubonic plague (1348), established structures of ownership were open to question. Monna challenged Matteo and his immediate kinsmen and they seem to have offered no response beyond Filippo de' Villani's testimony.

This case indicates how lower-status females became involved in the disputes of the Florentine elite. Two female servants appear in the Buiano case: Marchesina and one of the witnesses, Simona di Saninello. The description of Marchesina as Monna's 'servant and retainer' (*famula et fante*) of Monna indicates her direct involvement in the move against Matteo's property. *Fante* usually denotes an armed retainer in an elite entourage.⁵⁶ Perhaps Marchesina was pressed into service due to a shortage of males among the Pazzi and their *famiglia*. Rather than acquiescence to Monna's demands, Marchesina's participation in the attack can be read as a product of her highly circumscribed room for maneuver: servants possessed little autonomy vis-à-vis their mistresses and masters in late-medieval Tuscany, as in other epochs.⁵⁷

Simona Saninelli, a Villani servant, was present for the assault. Her testimony indicates the choices facing female subordinates caught between feuding families:

Interrogata actinet [*sic*] alii partium dixit quod non set dixit qua esse famula dicti Macthey. Interrogata quam partem vellet obtingere dixit dictum Mactheum. Interrogata si predict dixit hodie amore timore etc dixit quod sic quia dixit amore et timore dicti Macthey cuius est famula.⁵⁸

'Asked if she belonged to one [or other] of the parties she said no, but that she's the servant of the said Matteo. Asked which side she desired to adhere

to, she said the said Matteo. Asked if she said the abovesaid today from love, fear, and so forth, she said, yes, because she said [these things] from love and fear of the said Matteo, whose servant she is’.

The interrogative regarding motivations for giving testimony often concludes testimony in the Florentine criminal courts. This is one of the only cases I have seen, however, where the court demanded that a witness clearly align herself with one of the disputing parties, likely to confirm the lesser value of her testimony as someone affiliated with the Villani family. Simona’s motivation testifies to the zero-sum game female servants faced in such a situation: moved to testify through fear and obligation to Matteo, Simona could be sure her testimony would achieve nothing, because the same conditions that made her an eyewitness also weakened her evidence’s value against Lapa. Female servants were unable to use tactical claims of ignorance to evade involvement in such feuds as that between the Pazzi and Villanis, and within the Villani family, even as the criminal courts’ evidentiary norms effectively negated the value of active cooperation.⁵⁹ Social status and gender combined here, as with female victims of elite violence, to constrain the options of servants such as Marchesina and Simona.

Florentine law’s approach toward anti-female violence is relevant here. Stark evidence for how exposed women, in particular servants of great houses, were to assault, sexual or otherwise, comes from the Florentine *popolo*’s key legislative text, the Ordinances of Justice.⁶⁰ Rubric eight stipulated a thousand-*lire* fine for magnates who seized virgins, widows, or married women, with lower penalties for magnates who assaulted a female minor (two hundred *lire*) and female servants (fifty *lire*).⁶¹ If the servant had been abducted ‘voluntarily’ (*voluntarie*), or if she were a prostitute, there was no penalty. Proving a lack of consent was difficult.⁶² The rubric stipulated that three witnesses via *publica fama* were needed to prove rape allegations, and that the three could not be enemies of the accused magnate, or kin of the victim.⁶³ Serving women would have been hard pressed to find witnesses of this kind.

The Ordinances reinforced the liminal position of servants. In a meeting before the magnates’ revolt of 5 July 1295, Berto Frescobaldi lamented that ‘if we beat one of our servants, we’re undone’ (‘se battiamo uno nostro fante, siamo disfatti’).⁶⁴ Rubric ten of the edition of the Ordinances promulgated immediately following this attempted coup satisfied Berto’s lament:

Item cum multotiens contingat dominos et dominas suos scutiferos et famulos et famulas propter eorum culpas et inobedientiam castigare, provisum et ordinatum est quod, si contingerit huiusmodi scutiferos et famulos et famulas cum aliquo magnate commorantes offendi per dominum suum vel dominam vel aliquem de sua familia, in eo casu non vendicent sibi locum ordinamenta isuttie, sed remaneat iuri comuni et statutis comunis Florentie . . .’⁶⁵

‘Since it often happens that lords and ladies beat their shieldbearers, footmen, and servingwomen because of their faults and disobedience, if it is appropriate that shieldbearers, footmen, and serving women of this type dwelling with

any magnate are beaten by their lord or mistress or any one of their family, in this case the Ordinances of Justice shall not be employed in regard to [this case], but rather shall remain subject to the common law and statutes of the Florentine commune . . . '.

These were the legal constraints facing subordinate women such as Marchesina and Simona. Even in the Florentines' core anti-magnate legislation, rape and violence directed towards subordinate females barely registered. In such conditions, serving women chose the least worst option available.

Marradi

The third case provides a look at how judicial personnel understood specific female actions in terms of gendered attitudes. On 13 October 1367, the Executor's court filed charges against Cecca Girelli, a native of Marradi.⁶⁶ A former Guidi appanage that Florence annexed in the fourteenth century, Marradi is situated along the Lamone river at the foot of the Alpi di S. Benedetto.⁶⁷ Cecca had dispatched her servant Benedetto to Florence, where he demanded that Zenobio, a resident of *quartiere* S. Maria Novella, give her two gold florins. Zenobio refused. Benedetto returned emptyhanded, but Cecca sent him back to Zenobio with a threat:

. . . et iterum eadem Checcha misisset dicendo per eundem famulum eidem Zenobio quod nisi micteret sibi duos florinos aurei quibus egebat quod eum offenderet taliter quod melius esset mictere sibi quicquid vellet. Et quod dictus Zenobius eidem in nichilo obligatur ad eam nichil misit nec dedit.⁶⁸

' . . . and the same Cecca sent for the same Zenobio by means of speaking through the same servant that, unless he should send her the two gold florins which she needed, she would assail him, such that it would be better for him to give her whatever she wanted. And that the said Zenobio owed her nothing, and neither sent nor gave anything to her'.

Undaunted, Cecca donned male clothing and herself traveled to Florence. After nightfall, she approached a shop belonging to Zenobio's family and began throwing stones and beating on the door, demanding he come out and face her.⁶⁹ Zenobio barricaded himself inside and raised the *grida*, the emergency call for *popolani* under attack.⁷⁰ The ensuing ruckus drew ser Marino, a member of the Executor's entourage, who detained Cecca.⁷¹ No witness testimony was necessary, given that she was caught in the act.

The list of charges (*capitoli*) tells a tale in which female lust and indiscipline threaten social peace and prosperity. Cecca was 'wasteful of her own [wealth] and most faithfully tied to sensual self-indulgence, [and] wishing to persist in . . . her wasteful appetites, and to live immoderately from another's goods and money . . .'.⁷² This led her to involvement in wanton activities 'with many, various and diverse Florentine youths who are passed over in silence'.⁷³ Cecca and her associates, 'not having fathers or others who might restrain their youthful display', established what

sounds like a burglary ring for acquiring and fencing clothing and other goods, as well as money.⁷⁴ This extortion caused ‘disgrace, damage, and shame’ to many citizens, harming shops and houses in the city and *contado*.⁷⁵ Cecca’s activities had disrupted the city’s peace, and allowed ‘rumor, scandal, and unrest’ to arise.⁷⁶ No information survives concerning her fate, but it is difficult to imagine she would have been released.

This picaresque case is somewhat mystifying. How many countrywomen in the 1360s were crossdressing to attack Florentine storefronts as part of an extortion racket?⁷⁷ It is hard to dismiss as a complete fabrication. Since the inquest was initiated ex officio with Cecca in custody, there was no denunciation. It is possible that Cecca provided this account under torture, although no mention is made of *tormentum*. Likewise, why did the court not act against the gang of youthful associates who formed Cecca’s entourage?

Lacking other evidence to reconstruct Cecca’s social circle, it is impossible to satisfactorily answer such questions. It is possible, however, to hypothesize regarding her motivation. Her threats and action were likely part of a pre-existing relationship between her and Zenobio’s family. Marradi is sixty kilometers distant from Florence, deep in the mountains bordering the Faentino. Making that trip for nighttime intimidation indicates a real commitment to shaking down Zenobio. That Cecca acted after nightfall doubled the penalty and increased the likelihood that she would be apprehended. The countryside and the city were distinct in the frequency of violent crime, and especially its judicial reception.⁷⁸ It was more likely that the city’s guardians of public order would make an effective response to the *grida* within the city walls. As Sarah Blanshei has argued for contemporary Bologna, law enforcement officials had an easier time apprehending criminals in the wake of the plague, with more patrolmen for a depopulated urban space.⁷⁹ Under such conditions, Cecca’s apprehension was likely.⁸⁰

Several aspects of the tale point to the gendered assumptions underlying Florentine justice: Cecca’s gender-bending disguise; her association with Florentine youths and their lack of restraint due to an absence of constraining paternal authority; and the great disorder her taste for high living brought upon the city. Cecca was likely an unmarried young woman with, it seems, no male guardians: her name lacks a patronymic (‘quondam filia ___’) and association with a husband (‘uxor / mulier quondam/olim ___’). Cecca’s indictment for a desire to live ‘lustfully . . . and immoderately’ and her resort to predation⁸¹ to do so evince the concern with self-indulgence and female immodesty that lay behind female-exclusionary laws generally and sumptuary legislation particularly in Florence and other later-medieval Italian cities.⁸² Many of the Executor’s surviving civil procedure records concern inquests for female magnates’ violation of such legislation.⁸³ The danger such living posed to the body politic combined with the means of supporting it: a core feature of *popolano* identity was that one lived from one’s own labor, in contrast to the predatory magnate class.⁸⁴ Cecca’s lack of self-control in her lifestyle led inexorably to the more active deviancy of harassing and robbing Florentine citizens. This was compounded by the absence of fathers or other male authority figures to discipline Cecca and the unspecified youths in her entourage. The Florentine

state's duty to discipline its wayward children in the absence of such control on familial patriarchs is evident in the language of the trial record.⁸⁵

The court's charge against Cecca constructed her as the embodiment of gendered deviance: an unmarried, unsupervised woman from the outer limits of the Florentine domains, harassing citizens and subjects from a desire for high living.⁸⁶ She went about at nightfall disguised as a man, to attack Florentine citizens in their shops. Lacking a father or husband to support her criminal activities or at law, she contrasted sharply with Mona and Lapa, members of first-level elite families capable of paying any penalties incurred through their depredations. Cecca is cast as a classic other, a venal wolf menacing the Florentine state's self-image as a corporate body ruled through male authority and reason, composed of properly-governed, patriarchal households and networks of subordination and constraint.⁸⁷ One would dearly like to hear Cecca's account of the affair.

4.

This article has analysed the relationship between gendered judicial-political norms and the procedural record of female involvement in Florentine disputes, identifying a limited role for women to assert claims over property and rights in the mid-fourteenth century. The case of Cecca Girelli reveals how judicial personnel construed her actions in terms that underlined the threat she posed to the commune's prosperity and self-image as a patriarchy composed of interlocking, household- and community-level patriarchies capable of restraining wayward women and youths. Cecca's case also hints at just how determined Tuscan women could be in pursuit of a grudge.

Lapa de' Rossi's actions in Spoiano highlight how magnate women could engage in the sort of tactical direct action in pursuit of longer-term familial strategies of control over rural land and communities that is usually seen as a male preserve. Monna de' Pazzi's activities in Buiano provide evidence for how such tactics, based on the public assertion of a family's capacity for violence in pursuit of claims and the victims' inability to defend themselves directly or legally, fit within pre-existing, conflictual relationships. Monna was apparently acting in support of Giovanni and Matteo Villani's brothers, who were disputing family property and assets for much of the 1340s. Occurring in an area dominated by strong feudal families and geographically distant from Florence, the destruction of part of Matteo's *palazzo* demonstrated his failure to defend his goods and Bernardo's ability to enlist powerful friends to assert his claims. The involvement of Marchesina, as an armed accomplice, and of Simona, as a witness, points to the way that women were drawn into violent confrontations even if they were not the principals. Marchesina may have been pressed into service as a *fante* due to a dearth of males following the plague. Simona's dependence on Matteo Villani required her to provide testimony confirming the denunciation's account of events, yet the court's focus on her status as a Villani *famula* undermined this testimony's value.

Scholars have in recent years moved beyond traditional assumptions shaping historians' understanding of women in later-medieval Italy: their domestic

subordination; an omnipresent patriarchal juridical culture; their total absence from political participation.⁸⁸ The limited cases discussed above suggest that we reconsider the role of women in the direct action through which medieval Italians demonstrated their commitment to asserting claims over rights, properties, and people.⁸⁹ Female magnates such as Lapa and Monna embodied an implicit threat to the social order in a twofold way, when understood in terms of gendered views of proper behavior. Acting in the same manner as, and possibly substituting for, such violent kinfolk, magnate women personified two menaces to public order: the publicly disruptive woman and the predatory magnate. Cecca's activities are difficult to understand apart from the heavily gendered cultural assumptions underlying the account that survives. Her prosecution highlights the Florentine image of the state as a well-ordered confederation of patriarchies, and how the activities of women engaged in disputes undermined this self-understanding on the part of the commune's male governing elite.

The activities of these three women highlight one more point: the relationship between ideology and erasure in the historical past and the documents used to reconstruct that past.⁹⁰ Female protagonism in the medieval world of the public – disputes, communal decision-making, the maintenance of local parishes – is usually invisible. Androcentric social memory, witness testimony, and documentary standards conspired to erase it.⁹¹ Cecca's tale survives only because she was apprehended while attacking Zenobio's shop, Monna and Lapa's because the Florentine system of denunciation-based inquests documented them. Their elite status in part explains this exceptional visibility. Only the fact that the Executor's court investigated magnate crime, and that the Executor's patrolman Marino arrested Cecca, resulted in a record of their activities. How and when the female peasants of the Tuscan lands got their own back is much harder to reconstruct.⁹²

History is made by those who say no, as a gifted historian of cultural subversion once noted.⁹³ The cases of Lapa, Cecca, and Monna, however circumscribed by source survival and the parameters of the institutions and personnel producing them, suggest a twofold negation: their own, implicit in their actions, of the dominant public culture's assumptions regarding female agency, and of our own assumptions concerning female marginality to the world of the public and its modes of direct action.

Notes

- 1 *Alla memoria cara di mie nonne, Jeanne D'Arc Sayre Figliulo (1923–2011) e Barbara – Jean Rosswurm (1927–2007): donne di grande forza d'animo, matriarche delle loro famiglie*. I would like to thank the conference's participants and its organisers, Lidia Zanetti Domingues, Giulia Paoletti, Lorenzo Caravaggi; the anonymous reader at Routledge; the staff of the library of the École Française d'Athènes; the Archivio di Stato di Firenze's staff; Guy Geltner; Paul Megna; Natasha O'Neill; Corinne Wieben.
- 2 Britton 2000, pp. 58–59; García Fernández 2018, p. 119; Esposito 2005, p. 2; Geltner 2013, p. 27.
- 3 Gradowicz-Pancer 2002; Wieben 2010; Lansing, 2018.
- 4 Kuehn 2017, pp. 53–69; Kirshner 2017, p. 195.
- 5 Caferro 2018, pp. 178–199.

- 6 Stern 1995, pp. 194–204; Jessop 2008, pp. 157–177.
- 7 Forrest 2018, pp. 129–134; Rigby 1995, pp. 243–251; Kuehn 2017, pp. 296–326; Rasmussen 2019.
- 8 Gravela 2013, p. 27; 2018, pp. 161–163; Guzzetti 2012, pp. 41–66; Duval 2018, pp. 137–138; Mainoni 2010, pp. 197–262; Chabot 2010.
- 9 Luongo 2019, p. 60.
- 10 *Statuto del Capitano del Popolo*, 4: XXVIII, p. 216.
- 11 *Statuto del Capitano del Popolo*, 4: XXVIII, p. 216.
- 12 Geltner 2013, pp. 27–28; Gazzini 2017, pp. 59–61.
- 13 *Statuto del Podestà*, LXXI, pp. 322–323.
- 14 *Statuto del Podestà*, LXXI, p. 323; Casagrande and Pazzaglia 1998, pp. 127–66.
- 15 *Statuto del Podestà*, 5: LXXI, p. 323.
- 16 Dialetti 2018.
- 17 Poloni 2007, pp. 33–34.
- 18 Wray 2009, pp. 733–734; Kumhera 2017; Jansen 2018; Roberts 2018.
- 19 Roberts 2019.
- 20 Lansing 2008, pp. 153–186.
- 21 Lansing 2008, pp. 153–158.
- 22 EOG 122, f. 62r; 50, f. 2r; 398, f. 13r.
- 23 EOG 33, f. 30r; 398, f. 13r.
- 24 Giansante 2013, p. 552; Zorzi 2008, pp. 121–162.
- 25 Lansing 1991, pp. 125–142.
- 26 Figliulo-Rosswurm 2019b, pp. 447–451; Klapisch-Zuber 2006, pp. 109–125.
- 27 EOG, 119, f. 5r.
- 28 EOG, 119, f. 5v.
- 29 EOG, 114, ff. 5r–10v.
- 30 AdP, 404, ff. 45r–45v.
- 31 CdC, 31, ff. 18r–18v.
- 32 EOG, 119, f. 5r.
- 33 EOG, 119, f. 36r.
- 34 Figliulo-Rosswurm 2019a, p. 8.
- 35 EOG, 119, f. 36r; De La Roncière 1975, p. 29.
- 36 De La Roncière 1975, pp. 33–34.
- 37 EOG, 119, f. 5v.
- 38 Vallerani 2012, p. 96.
- 39 cf. Guérin 2014, pp. 371–373, 388–398.
- 40 Caduff 1993, pp. 55–56.
- 41 Caduff 1993, pp. 52–54; Klapisch-Zuber 2006, pp. 460–461.
- 42 Berti 2005.
- 43 Delumeau 2005, pp. 75–81; Bicchierai 2005a, pp. 83–116; 2005b, pp. 22–34.
- 44 Casini 2011, p. 187; *Libro di Montaperti*, pp. 235, 349–343.
- 45 Salvemini 1899, pp. 208–209.
- 46 Pirillo 2003, pp. 134–150.
- 47 EOG, 119, f. 87v.
- 48 EOG, 120, ff. 19r–19v; on Filippo Villani cf. Basile 1970.
- 49 EOG, 120, ff. 19v–20r.
- 50 Aquilecchia 1970b.
- 51 EOG, 119, f. 87v.
- 52 Aquilecchia 1970a.
- 53 Aquilecchia 1970a.
- 54 Aquilecchia 1970a.
- 55 Compagni 1968, I, p. 22; Parenti 1978, p. 311; Zorzi 2008, p. 106.
- 56 Giuliani 2006.
- 57 cf. Levin 2019; Cohn 1996, p. 163; Klapisch-Zuber 1987, pp. 165–175.

- 58 EOG, 120, f. 19v.
 59 cf. Caduff 1993, p. 31.
 60 cf. Lansing 2018, pp. 174–176; Lansing 2003, pp. 85–100; Wieben 2010, pp. 1–11.
 61 *La legislazione*, rubr. VIII, p. 147.
 62 cf. Lansing 2018, pp. 167–168.
 63 *La legislazione*, rubr. VIII, p. 147.
 64 Compagni 1968, I, p. 15.
 65 *La legislazione*, rubr. XI, p. 148.
 66 EOG, 506, f. 35r.
 67 Mascanzoni 1981, p. 52; Casini 2012, p. 176.
 68 EOG, 506, f. 35r.
 69 EOG, 506, f. 35r: ‘Dicta Checcha disponens dictum Zenobium offendere et ut habilius et cautius eum offenderet [. . .] induit se vestibus virilibus [. . .] et [. . .] accessit ad quondam apothecam dicti Zenobii et sui patris [. . .]’.
 70 Manikowska 1988, p. 537.
 71 EOG, 506, f. 35v.
 72 EOG, 506, f. 36r: ‘[. . .] dicta Checcha sui prodiga et opibus veneris fedissime innodata volens eius lujuriosae appetitione [. . .] exequi et immoderate vivere de rebus et pecunis alienis [. . .]’.
 73 EOG, 506, f. 35r: ‘imiscuit et fuit cum multis variis et diversiis adolescentiis florentiniis quos tacentur’.
 74 EOG, 506, f. 35v: ‘Et maxime non habentes patres vel alios quos ipsos et eorum iuveniles colores [. . .]’.
 75 EOG, 506, f. 35v: ‘[. . .] et res alias extorquendi in dedicus dapnum et verecundiam multorum civium [. . .]’.
 76 EOG, 506, f. 35v: ‘ex quibus . . . superdictis per dictam Checcham commissis et perpetratis [. . .] rumor scandalum et tumultum oriri potuit’.
 77 Bennett and McSheffrey 2014, p. 2.
 78 Caduff 1993, pp. 33–35.
 79 Blanshei 2018, p. 65.
 80 Cf. Dean 2019; Roberts 2019.
 81 EOG, 506, f. 35r: ‘volens . . . lujuriosae . . . et immoderate vivere de rebus et pecunis alienis’.
 82 Kovesi 2002.
 83 EOG, 112; EOG, 79.
 84 Poloni 2007, pp. 57–58.
 85 Chabot 2010a, pp. 195–200; cf. Lett 2015, pp. 497–500.
 86 EOG, 506, f. 35r.
 87 Chabot 2010a, pp. 195–196.
 88 Luongo 2019, pp. 57–58; Dialeti 2018, pp. 332–333.
 89 Wickham 2003, p. 85.
 90 cf. Fuentes 2018, pp. 124–143.
 91 Wickham 2003, pp. 264–266.
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11 Gendering crime in Byzantium

Abortion, infanticide, and female violence

Stephanie Novasio

The position of women in Byzantine law and society has been elucidated by a substantial body of literature, but the relationship between crime, violence and gender in Byzantium remains underexplored. Nevertheless, in a recent article exploring portrayals of conjugal violence in Byzantium, Kaldellis and Messis illustrated that marriage provided one sphere in which women – though less commonly than men – enacted violent behaviour.¹ Violence, both physical and psychological, offered a means of reinforcing social order through the regulation of societal standards, and typologies of violence were gender specific; female ‘sinister’ violence, associated with the use of magic and sexual manipulation, contrasted with male ‘brutal’ violence, characterised by more physical forms of aggression.² This research highlights two crucial points about the relationship between women and violence that the present chapter explores. Firstly, concepts of violence were tied to social expectations of gendered behaviour. Secondly, the question of female violence is important for understanding how women negotiated and responded to their positions in the value systems and hierarchies of their society. This chapter examines abortion and infanticide as potential avenues for female violence in Byzantium, and how interpretations of violence enacted by people against children and their own offspring were influenced by the perpetrator’s gender in literary and legal sources. Skoda has demonstrated that multiple public discourses, including law and literature, shaped the interpretive frameworks for understanding violence in medieval communities.³ The meanings attached to violent acts against children in Byzantine texts relate directly to widespread cultural ideals about women’s roles in the family and society; however, they also reflect varying interpretations of the motives of these crimes, and their perceived impacts on individual morality, the social institution of the family, and the wider wellbeing of the religious and secular community.

Given the scarcity of literary and legal sources for these subjects, this analysis draws on examples from the sixth–fifteenth centuries, focusing particularly on the later Byzantine period where evidence is more abundant. It begins by examining abortion and infanticide from the perspectives of civil and canon law, before turning to literary characterisations of violence towards children. Since Byzantine imperial law on abortion largely reiterated Roman law as compiled in Justinian’s *Digest*,⁴ legal texts tend to convey a continuity in attitudes that may obscure how ideas about abortion altered with the societal transformations witnessed across

this broad timeframe. Moreover, as the legal and literary texts discussed here were produced by male authors from the upper social echelons, it is difficult to assess how far they echo wider social attitudes, or the concerns of real women and men engaged in these crimes. While this chapter focuses primarily on norms and expectations, it offers some concluding remarks about the real-world concerns surrounding abortion, infanticide, and violence against children that the sources, at times, reveal.

Before turning to the Roman and early Christian sources that informed the Byzantine perspective, it is worth considering the relationship between abortion, infanticide, and gender historically and in current scholarship. In the modern western world, the question of abortion and its legality has been intrinsically connected to the advocacy of women's social and reproductive rights, as well as physician's rights to practice medicine freely.⁵ Meanwhile, historians have noted that abortion and infanticide were gendered as women's crimes in various pre-industrial societies and linked this gendering to the positions historically occupied by women in legal and socio-economic structures. Thus, for Mistry, the gendering of abortion 'as a female offence' by Roman moral standards reflected 'the social structuring of marriage and reproduction' in antiquity.⁶ However, our understanding of abortion and infanticide in the past has equally been shaped by modern historiographical approaches. For instance, Lewis notes that, because the imperial law of the Holy Roman Empire defined infanticide as an act committed by unmarried women, scholars have generally adopted this definition and overlooked other circumstances in which children were killed.⁷ It is therefore important to ask how far abortion and infanticide were gendered as female offences in Byzantium, bearing in mind the degree to which the source material has been shaped by contemporary legal and social norms. What categories of criminality did abortion and infanticide represent? Did the Byzantines always imagine that these crimes would be committed by women, and if so, what type of women?

In Byzantium, abortion and infanticide overlapped with various categories of criminal behaviour that intersected with gender and social status, whose role in shaping violent or subversive behaviour and expectations of behaviour is explored here. Gender and status were essential to both the social order and functioning of Byzantine society,⁸ and, alongside age, in shaping the individual's social roles and identities.⁹ Byzantine perceptions of violence towards children – which the sources primarily associate with women – were inherently tied to the roles deemed as appropriate for adult women in a Christian patriarchal society, particularly the roles of wife and mother, to which the themes of marriage and childbearing were central. Yet, perceptions of criminal and violent behaviour were based on an interplay of factors; the offender's social status also influenced how the perpetrators, victims and motives of these crimes were conceived.

Legal perspectives

Both the Roman legal and Christian ideological systems adopted by the Byzantines viewed abortion and infanticide as offences in which gender and status

played important roles. Roman law considered abortion in two contexts: the protection of a husband's ability to transmit wealth to legitimate offspring, and the regulation of drugs and poisons.¹⁰ In the first instance, abortion was defined as a crime committed by an (implicitly) married woman against her husband, whom she deprived of potential heirs by terminating her pregnancy. In the second, those who distributed abortive drugs were punished with exile, either to the mines or, if the offender were high-status, to an island, since these substances could endanger a woman's life. Abortion was not considered as murder, but as a matter of inheritance, spousal duties, and drug regulation, wherein the severity of the penalty varied according to the offender's status. From the fourth century, with the growing influence of Christianity, the laws on infant exposure and abandonment were altered, so that infanticide became a capital offence.¹¹ Yet, the early church possessed no homogenous view on birth control or the status of prenatal infants. Whilst early Christian writers emphasised the embryo's ontological autonomy, the issue of when a child *in utero* gained a life and soul was debated throughout the Byzantine era, though there developed a prevailing perception based on Aristotelian logic that an embryo was alive from the fortieth day after conception.¹²

The association of abortion with infanticide and murder is encountered amongst the church fathers and the acts of ecclesiastical synods. Christian law classed abortion somewhere between unpremeditated murder and adultery, both punishable by penances of five–seven years, and willful murder, punishable by life-long excommunication,¹³ though the canons that shaped the canonical tradition of abortion in Byzantium and the medieval West prescribed a ten-year penance.¹⁴ Thus, canon 21 of the Council of Ancyra (c. 313) stipulated that women who fornicate and either kill their offspring or strive to cause an abortion shall receive a ten-year penance.¹⁵ The canon refers to an earlier ruling that scholars often identify with the Council of Elvira (c. 305), which banned women who killed children conceived through adultery during their husbands' absence from communion at death, although this identification is speculative.¹⁶ The contexts in which the canons situate abortion is noteworthy. Abortion and infanticide are linked more closely with sexual immorality – adultery and fornication – than the destruction of life, and culpability for abortion is placed on the women who sought it. Basil of Caesarea (c. 330–379) adapted this perspective, deeming women who both took *and* administered abortive drugs guilty of 'murder (φόνος)'.¹⁷ Still, the church fathers perpetuated links between abortion and sexual sin. John Chrysostom (c. 347–407) viewed abortion as a sin enacted by a prostitute 'with a view to drawing more money by being agreeable and an object of longing to her lovers (Ἰνα γὰρ αἰεὶ τοῖς ἐρασταῖς εὐχρηστος ἦ καὶ ποθεινὴ καὶ πλέον ἀργύριον ἔλκη, οὐδὲ τοῦτο παραιτεῖται ποιῆσαι)', though he lays blame for these women's actions on the men seeking their services.¹⁸

Roman and early Christian law thus produced a panoply of views on abortion, to which gender and status were central. Abortion and infanticide were perceived as a woman's rejection of her duty to bear her husband legitimate offspring, or as acts arising from sexual sin, extramarital relations and prostitution, an occupation of lower-class women. How writers described these crimes reflects anxieties about women's roles in society as wives and mothers, and the reality that some

women's sexuality and behaviour lay outside the sphere of marriage. We now turn to later Byzantine texts, to examine how these perspectives developed over time.¹⁹

One text useful for assessing the development of Byzantine legal concepts of abortion and infanticide is the priest-monk Matthew Blastares' *Alphabetical Collection*, dated to c. 1355. This widely circulated, alphabetically arranged encyclopaedia of canon and civil law aimed to offer practical advice to the clergy involved in judicial processes.²⁰ Blastares deemed several laws relevant for citation on the matter of abortion. Byzantine secular law preserved the Roman concept of abortion as a crime committed by a wife who rejected her marital obligations towards her husband. Thus, one source cited in Blastares' chapter, 'concerning women who take abortive drugs in order to miscarry (Περὶ τῶν γυναικῶν τῶν πρὸς τὸ ἀμβλῶσαι φάρμακα δεχομένων)', is the *Novels* of Leo VI (r. 886–912), which allowed a husband to divorce his wife who purposefully aborted his seed.²¹ The distinction of penalties for abortion by status also remained. Those who administered abortion-inducing drinks (ἀμβλωθρίδια) were condemned to the mines if of low status or banished with confiscation of property if of high status. From this perspective, abortion did not equate to murder unless the woman receiving an abortive drug died, in which case the drug's provider was liable to the 'ultimate punishment (ἐσχάτη . . . τιμωρία)', while those who abandoned, neglected and exposed infants were simply classed as murderers.²² Nevertheless, other middle and late Byzantine imperial legislation condemned women who took or administered abortifacients as guilty of homicide.²³

A continued concern with the impact of abortion on a woman's husband in civil law also emerges in the thematically arranged *Hexabiblos*, legal compendium of the fourteenth-century jurist Constantine Harmenopoulos. Here, abortion features in the chapter on marriage, as a basis for a man to divorce his wife.²⁴ Yet laws from the section on murder reflect concerns about the protection of infants themselves; anyone who buried a pregnant woman before her offspring was delivered, as well as those who suffocated, starved, abandoned or exposed infants, were deemed guilty of murder.²⁵ The text also stipulated capital punishment for people who administered noxious drugs²⁶ – the usual means by which abortion was expected to be achieved. Indeed, a single reference to abortion appears in the record of a sorcery trial brought before the patriarch and synod of Constantinople in 1370, which involved a hieromonk (a monk ordained as a priest) who purchased an abortive drink for his pregnant lover, a nun, to conceal their fornication.²⁷ The nun's fate is unrecorded, but the monk was stripped of his priesthood, whilst the doctor who provided the abortifacient had been exiled, a penalty conforming with legal guidelines for abortion.²⁸ Congourdeau notes that, although canon law and synodal jurisprudence would have deemed the monk liable to deposition whether he was tried as a fornicating cleric or murderer, the accused's description of himself as the 'murderer of this embryo (τοῦ ἐμβρύου ἐκείνου φονεὺς)' in his emotional plea of guilt may reflect popular opinion equating abortion with murder.²⁹ This insight into a man's self-perception as a murderer is noteworthy, since it negates the gendering of abortion as a female crime in legal texts and suggests that men could also be deemed as culpable for this offence.

Christian ideology influenced a change in attitudes towards foetuses that, from the sixth century onward, becomes detectable in Byzantine narrative literature and visual culture.³⁰ This change is reflected in the canon laws discussed by Blastares on the matter of abortion, which is equated with murder. Alongside the aforementioned rulings of Ancyra and Basil of Caesarea, Blastares cites canon 91 of the Council in Trullo (692), which reinforced the assertion that ‘those women who either take or furnish drugs in order to miscarry (ὄσαι τῶν γυναικῶν ἢ δέχονται, ἢ ἄλλαις ὀρέγουσι πρὸς τὸ ἀμβλῶσαι φάρμακα)’ must suffer the penalties of murder.³¹ The ruling conceptually renders the actions of women who abort as indistinguishable from those who expose or fatally neglect infants, also classed as murderers in Blastares’ subsequent chapter, ‘concerning a woman who is careless concerning her child or who exposes it (Περὶ γυναικὸς τῆς ἀμελῶς ἐχούσης περὶ τὸ κῆμα ἢ ἐκτιθεμένης).’³² Secular and canon law thus continued to define and punish abortion variably throughout the Byzantine period. In one sense, abortion represented a violent act of murder. In another, it constituted a woman’s rejection of her social obligations as dictated by the institution of marriage, an attack on her husband’s honour and right to legitimate heirs who would inherit his property. Whether, given the law’s preoccupation with property, high-status women were more likely to face repercussions for aborting is unclear, although the law did observe that women might be paid to abort by secondary heirs seeking to remove rival inheritors.³³

What can be said about the gendering of abortion and infanticide as crimes? Evidently, the defining of abortion as grounds for divorce relates directly to women’s social roles as wives and mothers. Yet, secular laws do not always ascribe feminine gender to those who neglect, expose, or kill infants,³⁴ and distributors of illicit substances used as abortifacients could be – and indeed were – male and female alike. Nevertheless, both the chapters and canon laws cited in Blastares’ text assume that the perpetrators of abortion, exposure and infanticide are female; these crimes concerning women (γυναικες) thus appear under letter ‘Γ’ of the law code. Even when abortion appears under letter ‘Φ’, which deals with murder (φόνος) and drugs/poisons (φάρμακα), in the chapter, ‘concerning women who murder young ones by means of drugs (Περὶ τῶν φονευουσῶν γυναικῶν διὰ φαρμάκων τὰ ἔμβρυα)’, the same gender assumptions manifest;³⁵ abortion and infanticide are rendered as female offences.

Blastares’ descriptions of the canons on abortion and infanticide reveal a further association between these crimes and certain *types* of women, who differ from those imagined in the aforementioned secular laws. When citing the Trullo ruling on abortion, Blastares offers presumptions about women’s motives for aborting. According to the text, women seek to kill their embryos by drinking poisons or squeezing their bellies with weights after conceiving through secret intercourse with men, ‘in order that they are not condemned for fornication by either their parents or masters (δέει τοῦ μὴ ἀλῶναι πορνείας γονεῦσιν ἴσως ἢ δεσπότηαις).’³⁶ This same reason for why women abort was given by Zonaras and Balsamon in their twelfth-century commentaries on Basil of Caesarea,³⁷ and reappears in Blastares’ discussion of Basil’s canons 2 and 8, accusing women who take or administer abortifacients of voluntary murder but prescribing them a ten-year penance, the

penalty for involuntary murder. The discrepancy between accusation and punishment is explained by the fact that these women's pregnancies were not yet visible, and because they did not commit murder out of vicious intention, but 'because of shame or ignoble fear, perhaps of parents, a master, or some other who threatens danger (ἀλλὰ δι' αἰσχύνῃν ἢ φόβον ἀγενῆ, γονέων τυχόν, ἢ δεσπότου, ἢ ἄλλου τινός, κίνδυνον ἀπειλοῦντος).'³⁸

The passages yield several presumptions about the types of women who abort. These presumptions echo earlier preconceptions of abortion as a gendered crime linked to fornication, yet the perpetrators here are not wives, but women under the authority of parents or masters – by implication, unmarried young women, servants or slaves.³⁹ The violent crime these women were accused of was partially excused by their fear of discovery or vengeance in response to a sexual sin, consequences that posed them danger; they were viewed as victims as well as perpetrators. Women who neglected or exposed infants are afforded similar motives. Citing Basil again, Blastares explained that women are guilty of murder when they commit these crimes with inhumane intention, having 'conceived perhaps by fornication or adultery, and attempted in this way to conceal the sin (ἐκ πορνείας ἴσως τοῦτο ἢ μοιχείας συνειληφύιας, καὶ τὴν ἁμαρτίαν ταύτη πειραθείσης συγκρύψαι),'⁴⁰ only women who abandoned their children to protect themselves in desperate circumstance were excused. Though violent acts, abortion and infanticide are portrayed more forcefully as crimes through which women inverted or circumvented the social norms and orders that governed them. The motives that legal authorities offered for abortion and infanticide thus relate directly to some of the ways that women were believed to navigate the cultural and moral standards of their time, and their positions in the family and society, whether as unmarried women subject to the authority of fathers or masters or as wives to their husbands.

A final examination of the letters of the reforming patriarch Athanasios I (1289–1293, 1303–1309) shows that these character profiles for women who aborted or killed their offspring continued to reflect societal expectations about gendered (mis)conduct. Athanasios' letters address a range of moral and civil issues, many of which were dealt with in his *Neara*, a new law issued by the synod in 1304. Although Athanasios was actively involved in judicial affairs as patriarch, his numerous proscriptions against sexual offences, which were difficult for legal authorities to detect and admonish, served a largely rhetorical purpose.⁴¹ Nevertheless, Athanasios' works, which prohibited abortion on four occasions, suggest that the practice of – as well as societal and legal responses to – abortion were still perceived as a problem in his time. In one mandate, Athanasios instructs bishops to excommunicate those who hold brothels, along with women who distribute or take drugs for abortion.⁴² Another letter exhorts the faithful to avoid women who give or take abortive drugs,⁴³ whilst two instructions, one addressing the inhabitants of Constantinople and the other all people – rich and poor, men and women, young and old – , call for women who transmit or possess knowledge about abortion or expose their children to be treated as criminals (the word 'murderer' (φονεύς) is used).⁴⁴ Abortion and exposure thus continued to be imagined as crimes performed by women, especially prostitutes. The contexts wherein these

crimes are described implies their association with certain categories of society. Athanasios' rulings on women who abort are nestled amongst condemnations of those who approach prostitutes, magicians, diviners, Jewish doctors, heretics, and practitioners of witchcraft on the pretext of seeking remedies. These 'outsider' groups, people of low or obscure social standing, reflect a broader cultural taboo surrounding women who practised abortion or exposed infants. Writing on infanticide and abortion thus relates to cultural anxieties about the regulation of sexual, social and religious practices, but also concerns on the level of church and state. For Athanasios, moral and social reform would save the empire, in a turbulent period of its history, from internal collapse and the external Turkish threat;⁴⁵ his censure of these outsiders forms part of an attempt to strengthen the church and secular community at that precarious time.

Legal perspectives categorise abortion into three types of transgressive behaviour. In one sense, abortion signified an act of passive aggression performed by a woman against her husband, that defied the conventions and institutions governing women's roles in the family and society. In another, it represented a crime arising from sorcery and social practices condemned by the church and state, whose participants – male and female – were held accountable. Finally, Christian ideology viewed abortion as murder, an act of violence associated with women that was conceptually comparable with infanticide though different in its penalties. In viewing abortion as murder regardless of the embryo's developmental stage, Congourdeau notes that Byzantium developed an attitude towards abortion that distinguished it from both pagan antiquity and the medieval West.⁴⁶ Simultaneously, while links between abortion and sexual sin persist in the writings of leading churchmen and canonists across the centuries, the sources increasingly express sympathetic views towards women who aborted, attaching greater meaning to women's motives for aborting and their impacts on individual morality. We now turn to assess how legal perceptions of women who killed or maltreated children compare with attitudes expressed in Byzantine literature.

Literary perspectives

References to child abuse and child-killing are rare and often perform a rhetorical function in narrative texts. In portrayals of emperors and empresses, violence against infants and children is used by Byzantine writers to reflect negatively on the perpetrator's character. Although both men and women appear as the perpetrators of violence against children, and although political criticisms of powerful women conventionally centre on their domestic roles as wives and mothers,⁴⁷ this type of critique is employed most effectually against women who are perceived to occupy marginal positions in the Byzantine social order with respect to their gender and status. Again, abortion and infanticide reappear as types of violence specifically associated with low-status women.

Byzantine writers condemned the violent treatment of children, even in cases of punitive forms of violence such as blinding. Thus, George Pachymeres portrayed the blinding of the eleven-year-old emperor John IV Laskaris by his regent, the

future emperor Michael VIII (1261–1282), as a shameful act committed against an innocent child.⁴⁸ Doukas adopted similarly emotive language when describing how emperor John V Palaiologos (1341–1391) had his grandson, ‘an infant just beginning to speak (νήπιον ὄντα καὶ μόλις ψελλίζοντα)’, blinded alongside his son Andronikos IV, who had conspired against him.⁴⁹ These emotive descriptions of violence serve a rhetorical purpose. Michael’s cruel treatment of John, the legitimate heir, remind the reader that he attained the throne through power-hungry ambition and disregard of God;⁵⁰ for Doukas, John V’s actions reflect his stupidity and incapacity in managing imperial affairs.⁵¹ Violence against children also lies in opposition to Christian values; in Doukas’ *History*, the only other men who harm or murder children are the ‘barbarian’ Turks.⁵² Similar sentiments emerge from Theophanes’ portrayal of empress Eirene of Athens, wife of Leo IV, who blinded her adult son Constantine VI, for whom she had been regent, in 797. In Theophanes’ *Chronographia*,⁵³ Constantine’s blinding was enacted on the order of Eirene and her advisers ‘in a cruel and grievous manner with a view to making him die (δεινῶς καὶ ἀνιάτως πρὸς τὸ ἀποθανεῖν αὐτόν)’ and precipitated a 17-day eclipse of the sun⁵⁴ – a metaphor for the emperor’s loss of sight.⁵⁵

All these rulers, whether male or female, are criticised for acting violently against either children or their own offspring. However, Theophanes’ portrayal of Constantine’s blinding demonstrates how gender was employed to manipulate constructions of violence, particularly violence committed against one’s own offspring, in Byzantine writing. Ultimately, Theophanes shifts blame for Constantine’s violent treatment away from Eirene herself by exploiting the trope of feminine moral weakness. The Devil inspired ambitious men at court to set mother against son and persuade Eirene with false prophecies that God had destined her to rule alone; Eirene, ‘deceived, like the woman she was (αὐτὴ δὲ ὡς γυνὴ ἐξαπατηθεῖσα)’, accepted this ruse.⁵⁶ Despite his criticism of Eirene’s ambition and brutality towards her son, Theophanes viewed the empress – who was ultimately celebrated for restoring the worship of icons in Byzantium – as God’s answer to the impieties of her iconoclast predecessors.⁵⁷ By casting Eirene’s violent behaviour in gendered terms, Theophanes downplays and partially excuses her role in it. Although Constantine was an adult at the time of this event, Theophanes’ handling of it demonstrates that literary portrayals of female violence reflect the ways that women position themselves in the social hierarchy with respect to their gender and status.

Renderings of women who acted violently towards their children, and whose status placed them in more socially compromising positions, receive greater criticism. A rare but well-known literary reference to abortion comes from Prokopios’ portrayal of empress Theodora, wife of Justinian I (r. 527–565), in his *Anecdota*. This infamous invective aims to illustrate how through Justinian’s greed and susceptibility to Theodora’s manipulation, the couple tore the empire asunder, using gender role inversion as its primary means of criticism.⁵⁸ Specifically, Theodora inverts the feminine ideal of motherhood by committing abortion and infanticide, acts that Prokopios connected to her gender and status. Before she was empress, Prokopios’ Theodora came from a family of performers, a group of low social standing, at the amphitheatre at Constantinople, where Theodora and her

sisters performed and worked as prostitutes in youth. Prokopios details at length how Theodora had shame in neither her scandalous performances nor her sexual exploits, practising even non-procreative sexual acts that were ‘not according to the laws of nature (οὐ κατὰ νόμον τῆς φύσεως)’.⁵⁹ Theodora often became pregnant, but always aborted immediately. Although Prokopios criticised Theodora’s sexual promiscuity, he linked her motives for aborting to her practical concerns and occupation as a prostitute. After Theodora failed to abort one of her pregnancies, Prokopios claimed that the infant was taken by his father, who feared that Theodora would murder the child because ‘after becoming a mother she would no longer be able to go on using her body as she had done (ὅτι μήτηρ γενομένη τῷ σώματι ὁμοίως ἐργάζεσθαι οὐκέτι ἄν δυνατὴ εἴη)’.⁶⁰

However, Prokopios later elaborated this storyline. After Theodora attained the rank of empress, which she achieved by seducing Justinian through arts of magic in sorcery that she learned in youth,⁶¹ she was confronted in Constantinople by her illegitimate son and had the boy murdered so that Justinian would not discover him. By this point in the text, Theodora’s damnation is well developed; she has corrupted all women into committing adultery, had their husbands scourged and jailed if they took their wives to court, meddled in secular and ecclesiastic elections and noble marriages, and subjected those who opposed her or inspired her jealousy to exile, imprisonment, death, torture, and slander, accusing men of sexual offences including pederasty and homosexuality.⁶² Unlike her abortions, Theodora’s murder of her son and violent methods are rooted in her quest to consolidate and maintain power over both the empire and Justinian – power that, in Prokopios’ view, she has no claim to because of her womanhood and low-status.

These different renderings of imperial women who acted violently towards their offspring have to do with genre, literary agendas, and the nature of the violence involved. Though both Eirene and Theodora are portrayed as enacting violence to maintain imperial power, Theodora’s graver crimes of abortion and filicide amount to acts of murder, even though Theophanes claims that Constantine VI’s blinding stemmed from murderous intentions. Gender plays a key, albeit a different, role in how female violence was constructed in both portrayals. Whilst the topos of feminine weakness is used to alleviate some blame from Eirene for her son’s treatment, Theodora’s use of specifically ‘feminine’ forms of violence – sexual manipulation, slander, magic – alongside acts of child-killing solidify her damnation. Literary typologies of female violence are also connected to status. As has been observed with expectations about women who abort and commit infanticide in legal texts, Theodora’s violent treatment of her own offspring was linked to her use of sexual manipulation and lowly social origins as an actress and courtesan.

Status plays an important role even in negative portraits of women where violence is more implicit, as in Nikephoros Gregoras’ rendering of Eirene-Yolanda Palaiologina, daughter of the marquis of Montferrat, and second wife of Andronikos II (1282–1328). Eirene eventually separated from Andronikos and held a court at Thessaloniki, issuing documents as *Augusta* in her own right.⁶³ Gregoras’ criticism of the empress is, however, largely based on her foreign origins. As the daughter of a marquis – not a high rank amongst the Latins, Gregoras asserts⁶⁴ – she failed

to understand Roman customs and wanted her children to rule parts of the empire autonomously according to the Latin style of rulership.⁶⁵ According to Gregoras, Eirene tried emotional and sexual manipulation to make Andronikos consent to her plans, then resorted to broadcasting intimate details of their marriage that would make even a courtesan blush;⁶⁶ again, these are ‘feminine’ forms of violence. Gregoras’ Eirene is also a bad mother; she caused her sons misery by sending them to become heirs of her lecherous son-in-law, Kral Stefan II Milutin, in Serbia, whose lands and nobility they found hostile. These actions happened because Stefan, with whom Eirene was conspiring, had raped his wife – that is, Eirene’s eight-year-old daughter Simonis – causing her to become infertile, an act through which Eirene met God’s judgement for trying to realise her plans through Godless means.⁶⁷

Though Eirene-Yolanda does not intentionally harm her children, her social origins, like Theodora’s, make her susceptible to a form of critique that links low or obscure social status with feminine forms of violence, including sexual and psychological manipulation, the use of magic, and maltreatment of children, to cast a powerful woman in a damning light. With respect to gender, it is significant that, unlike the widowed Eirene of Athens, Eirene-Yolanda’s and Theodora’s violent actions depreciate their husbands’ authority and social honour, thus threatening the hierarchical model of the family and, by extension, society. However, all these examples reflect the centrality of motherhood to the feminine ideal. A woman’s refusal or failure to embody motherhood offered a foundation for denouncing her character and required delicate treatment when the author favoured the female ruler. Gendered expressions of violence, the maltreatment of children, and bad mothers coincide in historical narratives because all these behaviours have the potential to challenge the roles conventionally occupied by women in society, especially when combined in the powerful role of an empress.

Conclusion

In literature, as in law, the maltreatment and killing of children, especially by abortion and infanticide, were conceptually linked with women of low status, sexual immorality and illicit, non-Christian practices (magic and sorcery). In this sense, both literary and legal representations of child-abuse and child-killing reflect cultural expectations about women who occupied inferior or alien positions in the conceptual world of the Byzantines. However, while these genres exploit similar conceptual frameworks, they also yield certain paradoxes. When abortion, infanticide and other violent acts against children appear as explicitly feminine behaviours in legal contexts, they are often portrayed as crimes born out of deception, desperation, and women’s attempts to navigate their society’s cultural standards, rather than malicious intent. Women who abort, kill or expose children often come from vulnerable categories of society, whether they are young women subject to parental authority, servants or slaves subject to masters, or prostitutes subject to the demands of their trade. In these instances, gender and social (including marital) status mediate women’s perceived potential and motives for violent action. Although in literature writers use these same aspects of identity to attack women who killed

or acted violently towards children, their criticisms are levelled at women who are, at the time, in positions of high status. Aside from the fact that low-status women are generally not well-represented in literature, this paradox probably reflects the fact that writers generally saw criticisms based on sex and motherhood as the most effective means of condemning powerful women.

It is difficult to determine how far the gendering or non-gendering of abortion, infanticide and other violent acts against children in the sources reflected social reality. The fourteenth-century abortion case from the patriarchal register suggests that guidelines for abortion in law-codes may have informed legal practice, but the nature of the charges involved are difficult to unpick. The linking of abortion with murder in this case and patriarch Athanasios I's letters, which specifically associate abortion and infanticide with prostitutes and practitioners of magic, probably reflect broader social attitudes and practices. Otherwise, the sources examined here chiefly reflect cultural anxieties and expectations about women's relationship with crime and violence. According to these expectations, abortion, infanticide and the mistreatment of children certainly offered ways of expressing violence gendered 'female'. Through these crimes, women enacted harm against their children, husbands, and – more broadly – Christian social values, since abortion and infanticide allowed women to evade or reject the roles conventionally assigned to them by society. This violence could be physical, psychological or 'social' in nature (e.g., harming a husband's public reputation). However, although abortion and infanticide were conceptualised as violent crimes, at times they were portrayed more forcefully as offences against social norms and hierarchies, arising from sexual sin, and associated with groups whose behaviour opposed the ideals of the church and/or state. Moreover, while the sources often gender the abuse and killing of children as female offences, people of multiple stations and genders engaged in these acts.

The chronological sweep of the sources examined here reflects a trend that, over time, increasingly aligned abortion with murder and assigned importance to women's motives for aborting or killing their offspring, but also often reinforced timeless stereotypes of the who women engaged in these acts. The tendency of Byzantine writers to essentialise these women reveals the significant staying power of expectations about gender, normative behaviour and violence.

Notes

- 1 Kaldellis and Messis 2016, pp. 23–24, 31–35.
- 2 *Ibidem*, p. 35.
- 3 Skoda 2013.
- 4 Congourdeau 1982, p. 109.
- 5 Reagan 1997, p. 244.
- 6 Mistry 2017, p. 32.
- 7 Lewis 2016, p. 7.
- 8 James 2009, p. 31.
- 9 Davies 2013, pp. 4–5.
- 10 Mistry 2017, pp. 26–27.
- 11 *Ibidem*, pp. 27–28.
- 12 Troianos 1991.

- 13 Gorman 1998, pp. 65–66.
- 14 Mistry 2017, p. 46.
- 15 Hefele 1872, p. 220.
- 16 Mistry 2017, pp. 44–45.
- 17 Basil of Caesarea, *Letters*, 188: 8.
- 18 John Chrysostom, *Homilies*, XXIV, p. 414/ Migne 1862, col. 627.
- 19 For the development of Byzantine laws on abortion, see Congourdeau 1982 and Troianos 1991.
- 20 Viscuso 2008, p. 3.
- 21 Matthew Blastares, *Alphabetical Collection*, Γ. 28.
- 22 *Ibidem*, Γ. 29.
- 23 Congourdeau 1982, p. 110.
- 24 Constantine Harmenopoulos, *Hexabiblos*, IV. 15. 6.
- 25 *Ibidem*, VI. 6. 22; VI. 6. 13–15°.
- 26 *Ibidem*, VI. 10. 2.
- 27 Miklosich and Müller, pp. 541–550; *Regestes*, N. 2574.
- 28 Congourdeau 1982, p. 113.
- 29 Miklosich and Müller, p. 549; Congourdeau 1982, p. 112.
- 30 Davies 2013, pp. 40–46.
- 31 Matthew Blastares *Alphabetical Collection*, Γ. 28.
- 32 *Ibidem*, Γ. 29.
- 33 Congourdeau 1982, p. 109.
- 34 Matthew Blastares *Alphabetical Collection*, Γ. 28–29; Constantine Harmenopoulos, *Hexabiblos*, VI. 6. 13–15.
- 35 Matthew Blastares *Alphabetical Collection*, Φ. 8.
- 36 *Ibidem*, Γ. 28.
- 37 Rhalles and Potles 1852–1859, IV, pp. 96, 99.
- 38 Matthew Blastares, *Alphabetical Collection*, Γ. 28.
- 39 In the Byzantine, Christian view, the master-slave relationship was not dissimilar from the parent-child bond; masters had a moral responsibility towards their slaves, just as slaves were obliged to obey their masters (Rotman 2009, p. 136). Although late Byzantine writers criticised slavery, slavery persisted throughout the empire’s history (Pahlitzsch 2017).
- 40 Matthew Blastares *Alphabetical Collection*, Γ. 29.
- 41 Boojamra 1993, p. 143.
- 42 Athanasios, *Regestes*, N. 1747.
- 43 *Ibidem*, N. 1749.
- 44 *Ibidem*, N. 1762, 1779.
- 45 Boojamra 1993, pp. 5–6, 81–82.
- 46 Congourdeau 1982, pp. 114–115.
- 47 Brubaker 2004, p. 91.
- 48 George Pachymeres, *Relations Historiques*, III. 10. 256–257.
- 49 Doukas, *Historia Turco-Bizantina*, XII. 2.
- 50 George Pachymeres, *Relations Historiques*, III. 10. 255–157.
- 51 Doukas, *Historia Turco-Bizantina*, XII. 2.
- 52 *Ibidem*, VIII. 4, XXXIX. 25, XXXIII. 10.
- 53 Theophanes, *Chronographia*, 648–649. Page references are for Mango’s and Scott’s translation.
- 54 Theophanes, *Chronographia*, 649.
- 55 Herrin 2001, p. 99.
- 56 Theophanes, *Chronographia*, 638.
- 57 *Ibidem*, 626.
- 58 Brubaker 2004.
- 59 Prokopius, *Anecdota*, IX. 25.

- 60 *Ibidem*, XVII. 17.
 61 *Ibidem*, XXII. 27–28.
 62 *Ibidem*, XIII, XVI–XVIII.
 63 Melichar 2019, p. 139.
 64 Gregoras, *Byzantina Historia*, I. 238.
 65 *Ibidem*, I. 233.
 66 *Ibidem*, I. 235–236.
 67 *Ibidem*, I. 243.

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Conclusion

Women and violence in the Mediterranean, ca. 1100–1500. A few conclusive reflections from the Medieval past to our days

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The cultural and temporal distance between life today and the Middle Ages can make the period difficult to grasp and to understand. Historians of this period, collectively, need to confess that often only a patrimonial vision of history can retrace a direct and continuous line between that period and our own. We often struggle to conceptualise and describe the Middle Ages, despite concerted efforts to do so while avoiding anachronistic descriptions. Even language confounds us as the meanings and context of the words we use have changed dramatically over the course of the past one thousand years. Medieval ‘art’ did not correspond to our conception of art, and the artists then were not actually ‘artists’ in the sense we understand the term today. Medieval ‘States’ do not fit our current conceptions of States, their borders did not conform to our conceptions of borders, their empires were not imperialistic. Even the concept of ‘religion’ has changed significantly since the Middle Ages; medieval Christianity might be better described as *ecclesia*. Even using the term ‘Middle Ages’ to describe the period is anachronistic, as are most of the terms we have retrospectively applied to the people, powers, and politics of the period (‘Byzantine’ being, perhaps, the most egregious example here).

Beyond all these aforesaid discontinuities, however, there is the ancient and, at the same time, awfully modern theme of ‘women and violence’, which this book engages with. What could be more obviously contemporary, past, permanent, and continuously present than the question of the relations between women and violence? The historical constancy of the particular forms of violence levied upon women, and the forms of violence committed by women, manifest an apparent and disturbing stability from the most ancient past to today. This continuity sits within the obsessional attempt to study, frame, or denounce violence against women, in its different forms. This impression of staggering stability depends on a theoretical frame which produced the stereotypes we have in mind when challenging the subject, and which is giving us the feeling of an astonishing structural immobility of the nature of relations between women and violence. Almost all the chapters of this book challenged this pattern, but, very interestingly, did so without clearly defining it, as if it were implicit. Let us review the submissions of this volume, in order to articulate more precisely the general pattern and its historical adaptations.

The theoretical framing of women and violence is constructed and represented, almost exclusively, by men (it is commonplace to say it, but it is still not useless to express it clearly). That is to say, that women's relationship with violence was, during the Middle Ages, the object of an exclusively male discourse and an exclusively masculine construction. It was defined by a masculine vernacular. This does not imply that women are completely passive. On the contrary, they can play with male norms, elaborate strategies to negotiate them, or even internalise male standards and manufacture ways to use these standards and norms without questioning their underlying assumptions of female inferiority, even when this goes against their interests. This is frequently seen in domination structures that are often integrated and accepted by the main victims or submitted individuals. Even if the Byzantine documentation exposes the feminine freedom of speech, the *parrèsia*, it is under the male point of view which is obsessed by the conservation of an order dominated by men, fathers and kings (Elisabeth Malamut). In this way, Empress Theophano's speech to her husband the Emperor Leo VI is indeed a very frank one, but determined by its aim of submitting Leo to his father Basil, so to bend him to the due respect to the social order and of the familial hierarchy. Theophano's *parrèsia* here remains the instrument of a familial, patriarchal, and dynastic domination system.

We stand here at a methodological node inherited from the 'linguistic turn'. Since the documentation used in this volume was produced by men, can we go beyond a history of the male vision of the female violence and of the violence upon women? If all documentation is a construction, even if it contains facts, we must conclude that when documentation registers women's violence, or violence made to women, it is because men deigned to write it down. Put another way, female violence, in its male narration is a fact; therefore, it is a possibility. In Theophano's case, the right to female *parrèsia* is not only accepted as a right to this form of violence, but also as an instrument of her husband's progress and of the social stability and consistence, which presupposes that a man may improve thanks to a female's convincing speech. The question is: why is it interesting, aside from its simple efficiency, to let a woman express frankly the necessity of Leo's submission? Why should the violent voice of an individual who is submitted by nature to male domination be more convincing than a male one to persuade the emperor's son he should submit his father? Why, in this case, the violence of a dominated individual may induce the social order?

Theory and stereotypes

The question of the relationship women have to violence is mainly based on binary oppositions. These binaries are interesting in themselves, because they demonstrate that the question of women's violence is always related and evaluated according to men's violence. The main pair is therefore the man/woman couple, confirming that you cannot write the history of women without writing the history of men. In Corsica, at the end of the Middle Ages, the model of violence as used by ladies is overall the model of a couple, and, at the same time, a very male model of revenge (Lucie Arrighi).

Generally speaking, the question of female violence crosses that of the good and the bad, the right and the illegitimate, the true and the false. In other words, issues regarding women necessarily concern the universal order: either the moral order, the natural order, or the legal order. Any break out of the frame is therefore damage done to the integrity of the world and its harmonious organisation. Violence committed by and against women represent an aggression against the universal order. That is why, in my view, the social or political question of women always addresses more than the social and the political fields, and is raising serious, permanent and often excessive judgments, in both the Middle Ages and today. Even if laws and rules are seizing these issues, they are always more than a matter of law and social order, but a matter of universal order, of hierarchical harmony, of obedience to the law of nature and of fight against chaos. Penalties are disproportionate in crimes involving women, because such crimes harm not only individuals, but also the global order of society. That is why public laws always very precisely define women's rights, protections, penalties for crimes, and even small infractions committed against them (Nina Kršljanin, Philippa Byrne). Normative rules regarding women express a whole juridical construction of society. That is why the relation between women and justice is so relevant for the comprehension of medieval societies.¹

The second pair of antitheses relevant to this analysis opposes women as protagonists of violence to women as victims of violence. I will start with the second case, which is more familiar to me, and which leads us into a major theme about the question of the law and, through the law, to this general framework of which I have just spoken, that of the natural order.

For a long time indeed, the law has had a gendered approach to acts of violence in our societies. Generally, violence committed against women has been subject of specific categories. Let us take the Germanic law of the barbarian kingdoms from late antiquity to the Merovingians, the Franks, and the Lombards. The price of blood that must be paid to the family of the victim of a murder by the family of the murderer, as to compensate for the crime, the *Wehrgeld*, is much higher when the victim is a woman, and especially a woman in age of procreating, or, worse, a pregnant woman. This distinction accounts for the social price of a woman's life, the loss of which is also that of a potential for children. In the Frankish law, the rape of a woman comes under the high justice, the justice of blood, the one that is likely to be sanctioned by death, in the same way as murder (that was obviously not always the case in the Serbian legislation which largely prefers the cutting off of the nose, as seen in the article by Nina Kršljanin). What is striking however, is that the social and legal price of a woman's integrity is, in these Germanic laws, inversely proportional to the legal status of women, since women do not have their own legal personhood, they are not *sui iuris*. Their legal personality, named *Mund*, is always the property (and the responsibility) of a man, their *mundwald* (their father, their brother, their husband . . .).

In Roman law too, which, on the contrary, offers legal personhood to women (women are *sui iuris*), there are specific provisions to prevent women from becoming victims of men, and especially to protect their own property from men's thread. For example, the *Senatus Consultum Velleianum*, a law coming from the

period of Roman Republic and reused in Justinian and then Byzantine and Western law, forbids women to guarantee a loan, in order to protect them against the rapacity of men, but also against their own absence of judgment.² Roman law endorsed what were seen as women's natural disabilities. So normative regulation concerning women is not only targeting the problems of sexuality and sexual violence against women, or female deviance regarding sexuality. However, all legislation seems to have focused on these issues: controlling women's sexuality and body is a big issue.

In the Middle Ages, therefore, both in the Germanic and the Roman traditions, there were specific standards put in place to protect women from men, regardless of the legal status of women. Even if the results (in terms of women's rights and juridical autonomy) are quite opposite in these two juridical traditions, the background was the same, and was a moral one. These standards are indeed largely linked to a conception of the order of nature and morality, which is based on the idea that women have natural weaknesses, related to their sex, and that the law must protect them from men (by nature stronger) and from themselves (who are by nature weak). This fact cannot be overstated: women are first and foremost moral subjects (in the eyes of men) before being juridical subjects. Or at least their moral character greatly influences the right that is applied to them and that is specific to them. The rules regarding women are always more than just rules, they are inspired by moral standards – and as such, there were also tacit customs, during war, regarding the destiny of defeated population: men are murdered, women and children are enslaved. It was the norm, and still is the norm, indeed, followed and respected by ISIS during the territorial period of its presence in Syria (this respect of an ancient custom, supposedly enrooted in the Caliphate history, aimed precisely at demonstrating that ISIS was the embodiment of, and a return to, the medieval Caliphate, in the same way as the utilisation of beheading). But in a very different context, one may also recall that in France today, the separation of men and women in prisons has not been decided to protect women from risks of rape and pregnancy, but to avoid the moral contamination of the detained women that could occur through the contact with male prisoners: the woman is still considered a morally weak individual.³

The question of a gendered law still arises today, in our societies based on the principle of gender equality. At the moment in France there is an important legal debate on introducing – or not – the category of 'femicide' in law. This reflection is obviously linked to the frequent, if not almost daily drama, in France (and elsewhere, unfortunately), of women being murdered by their spouses or ex-spouses. The introduction of the 'femicide' category has to be considered an important novelty (even if we can wonder how it could contribute more effectively to fight violence against women). But would this category be based on the victim's gender? Of course not. Femicide does not qualify the victim's gender, but the motivation for the crime. Not every murder of a female individual is a femicide. Every femicide is the murder of a person because this person was a dominated individual as a woman, and thus considered as a man's possession, a property that a man may control, dominate and, eventually, destroy. In this sense, justice seems to have to

submit to social realities to fight them, and needs to consent to the fact that, in our Western and ‘civilised’ countries, some male conceptions of women as objects and properties under male rules still influence the birth of new juridical categories of crime, such as that of ‘femicide’. Justice is not ready to relinquish a gendered reading of violence, because society is not ready to relinquish a gendered conception of women’s social and moral status. One can however – and with a hopeful attitude – consider the great progress made in juridical vocabulary, since those not-so-distant days when people spoke of ‘crimes of passion’, something which sounded like an acceptable, even touching, justification for murdering a woman (i.e. the ‘he loved her too much’ theme, as if such an excess of love and passion justified murder).

However, we have to cautiously avoid excessive generalisations on the law. Even if they were based on the very same conceptions of natural female weakness, different normative corpora present notable diversities regarding women’s juridical situation. Roman law gave women access to a level of independence and autonomy that women submitted to Germanic law never obtained. Even the normative codes that are considered part of the all-encompassing category of ‘Roman law’ were in fact very different regarding women’s protection and rights. In fact, Byzantine law, which purports to be Roman law, was far more generous than the Code of Justinian regarding women’s rights. We could perhaps analyse the evolution from Norman to Swabian Sicilian laws (Philippa Byrne) as the result of the passage from a Byzantine-style system, still visible under Roger II (for example, in the *oikonomia* principle based upon mitigation of juridical severity and harshness), to a Roman one, with Frederick II. In fact, there was no ‘shared Roman frame of Roger and Frederick’s laws’, and beyond the claimed continuity between the first Norman king and his grandson, there is not only the transition from a moral to a procedural conception of law, but also the visible passage from a Byzantine to a Roman juridical construction, at the expense of women.

Let us now consider the other term of the aforementioned conceptual pair: that of women as inflictors of violence. This topic has experienced a renewed historiographical interest in recent years.⁴ Here again, women’s violence generates reactions that are often very emotional, linked to the fact that women are associated with gentleness, motherhood, and peace. We are, again, in the context of natural order, and of a gendered reading of the relation to violence, which is also a gendered approach to the relation to domination, and therefore to power. As such, the *parrèsia* (Elisabeth Malamut) is a category of violence committed by women that is not proscribed, but is constrained within a very restricted context. In this case again, the same background (the restriction of free public female speech, given that a publicly speaking woman threatens the social order and, above all, the natural order) leads to different forms of censorship in the Byzantine and in the medieval Western world. Female preaching in Western cities of the twelfth and thirteenth centuries is seen as frightening because it implied the possibility of a world where women are free from male guardianship. In the Byzantine world, when authorised to speak freely, women are considered violent, as if men who talk about this female *parrèsia* were conscious that this exclusive way women had to express their own will was also an opportunity to manifest all the violence and

the bitterness of a dominated individual that is, at least temporarily, unchained. In this way Byzantine writers acknowledge that the male domination on female free speech was bound to produce bitterness and violence. In a sense, the female *parrèsia* is a fair reply to male domination.

Now let us introduce another conceptual couple: one that contrasts forbidden violence (that is to say, criminal violence) and legitimate violence (in other words, the violence exercised by power, and particularly within the context of war). Both forms of violence, of course, violate widely recognised prohibitions, but in the second case violence is the fruit of consensual, recognised power. Papers focusing on this subject in the present collection show that access to legitimate political power allows women to overcome the barriers keeping them away from men's activities: war, diplomatic negotiation, power in general (Loeck Luiten, Alberto Luongo, Nina Soleymani Majd . . .): at a certain social level, gender determination is partially neutralised. Women's access to positions of power through regency, dynastic bounds or the full exercise of sovereignty in their own right put them in a position in which they have to wage war, especially when men are far away. Marie Guérin studied from this perspective the women of feudal lords in the Frankish Morea between the thirteenth and fifteenth centuries, lords who were always away for military purposes, leaving thus women who assumed all the functions related to their rank.⁵ Moreover, in the fifteenth century, Christine de Pizan maintains that ladies had to be knowledgeable about the handling of weapons and the art of war in order to command men and to be obeyed. They became 'women with a man's heart' ('femmes au cœur d'homme'), so that the political hierarchy could not be violated by their incompetence – here again, the central issue is that of respecting the order and being able to act like a man. However, women's position and actions are most often tainted by suspicion, because of the weakness linked to their gender (at least within the cultural framework we are dealing with). We should admit that even nowadays countries that are major military powers rarely accept to be ruled by female leaders, and that the States that choose women as keys leaders are rarely world military powers endowed with nuclear weapon. Legitimate military violence generally remains a male monopoly or activity that requires 'male' attributes, still to this day.

Let us observe the other member of the couple: forbidden, criminal violence. This is the field where the most extreme expression of all male reluctance towards violent women can be seen, because the violent woman transgresses many more rules than the violent man. She transgresses the law, she infringes the accepted morality of her sex and, in the Middle Ages, she violates the natural order. The first transgression (that of the law) is common to women and men; the second, that of the morality of the gender, is peculiar to women, and is still relevant, since criminal women are still not fully accepted today, as it was the case in the Middle Ages.

This third transgression, that of the moral order, is more political: by murdering an individual, one takes power over the other. In killing, the woman reverses the chain of command, the hierarchy of dominations, especially when she is supposed to serve the one she killed: her husband, or her children. In eighteenth-century England a woman who killed her husband was condemned not to hanging, but to the stake. In short, the criminal woman is in herself monstrous. As

such, she becomes the object of a register of discourse that is linked to what seems un-analysable, not rational. As a weak human being trying to kill a strong one, and as a human being violating the accepted norms, a criminal woman is supposed to use appropriate instruments for what constitutes a treason against natural order. The only killing instrument that a weak individual who needs to hide, lie, and act secretly with deceit is, according to this logic, poison. Female violence is a transgression against the weak, sweet and peaceful female nature, and as such it is committed in a specific way, which corresponds to the weak, dishonest and treacherous nature of such a female 'monster'. Treason, poison, and hidden plots are the weapons of female natures dominated by themselves, that is to say, dominated by their weakness, passion, irrationality, and excessive sexuality. Violence is in itself a gendered category in the medieval period. For women, it is one that makes them negative one, disgusting characters. For men, the evaluation is more ambiguous, since violence can have positive aspects, even though it risks transforming itself into excessive *hybris*. This happens for instance when violence is categorised as male *furor* (Nina Soleymani Majd), forbidden to women because they are unable to endure this excessive violence without plunging into madness.

Is it inevitable for law to express a moralised judgment of criminal women? Yes, but this does not mean that it necessarily does so by meting out harsher penalties against them. While popular emotion is stronger against female criminals, legal judgments are, on the contrary, often milder than those for men accused of similar crimes, because these judgments take into account both the exceptionality of the criminal woman and the idea that women are weaker and less responsible for their actions. The taboo of female violence is far from being transcended. It is even stronger if we consider how some Western societies have witnessed a significant reduction of female imprisonment, something which further underscores the rarity, and therefore the monstrosity, of female criminality.⁶

Women are supposed to be less naturally inclined to crime (by nature, according to medieval views, or by psychological orientations or hormonal determination, according to current theories). If they act out, it is because circumstances have been decisive. So the judge typically oscillates, even today, between exemplary punishments, which sanction the monstrosity of the felon, and milder punishments, which take into account the weakness of her sex and her essential function as mother. A recent study showed that arrangements are in place for detained mothers to see their children regularly, but similar arrangements do not exist for the detained fathers. This is the projection of the idea that children need their mother more than their father. Prisons are therefore also a place of gendered expression of social punishment.⁷

We can see how the question of women's relationship to violence, which is still today linked to a dominant male gaze, and to a dominant moral reading of categories of violence and of law, raises the issue of hierarchies of domination, which are transgressed by each woman when she commits violence (legitimate or not), a violence against which at the same time women must also be protected. Both moral principles and the idea of a natural order contaminate legal and

socio-political discourse, the writing of which is largely monopolised by men, leaving only small gaps for female agency.

To conclude this first part, aiming at defining our theoretical framework, let us discuss the best way to conceive such framework; in particular, let us examine transgressions of the frame, but not just specific, partial, temporary ones. Let us consider what would be an overarching, complete, and coherent transgression of the whole normative frame. One has only to conceive an imaginary place, a dystopia where all the possible cases of transgression of norms regarding femininity and violence would concentrate; a world where power is feminine, that is, attributed to women or to feminised men. It would be the perfect nightmare for our ‘male Middle Ages’, as Georges Duby dubbed the period.⁸ Disorder reigns, poisoning and belief in magic hold sway, as well as treason, hidden crimes, plots, and boundless sexuality as signs of weakness. This monstrous world has actually already been conceived and imagined, personified and embodied. This hell against nature, this chaotic nightmare existed, at least for those who created it. This world is the very one imagined by the Occident when constructing its vision of the Byzantine Empire, in the orientalist eye. We can say that this Byzantine Orient is the dreamed world created by the Occident when thinking of a world upside down, where women have power and the right to make use of violence, where ‘le pouvoir est au féminin’.⁹ An Orient ruled by women and feminised men (monks and eunuchs), unable to militarily resist external aggressions carried out by hyper-masculine enemies (barbarian invaders and conquerors, or the Western cavalry originated in the ‘male Western Middle Ages’), devastated from the inside by natural weakness and, obviously, doomed to face decline and destruction. It is certainly no coincidence that this imaginary view had been imposed to the Byzantine Empire for the first time in the eighteenth century, by anti-despotic and anti-Catholic members of the Enlightenment movement. They proposed equal access to political power, representation and democratic order to all, but only if these ‘all’ were only the men; these figures were much more willing for social than for gender equality – as Olympe de Gouges would, unfortunately for her, discover during the French Revolution.¹⁰ Democracy, yes, but a male one, ruled only by men for the good of both men and women.

Breaking the frame

Now, in almost all the papers in this volume, exceptions or transgressions to this theoretical frame are on the contrary prominent (except, of course, in papers dealing with normative rules, laws and the theoretical juridical frame). And, in my opinion, this is the great lesson to be learnt from Carol Lansing’s paper in this collection: when speaking of ‘gender expectations’, we have to keep in mind that these are not only the expectations of the medieval people, but also our own (‘notre horizon d’attente’ as we would say in French). What unifies the two parts of this contribution, that about the women of medieval Italian élites, and that analysing the humble *milieu* of women going to court to denounce a rape, is that the sources are deceiving our own expectations, based as they are on the aforementioned theoretical frame and conceiving violent women as exceptional cases.

Instead, almost all the articles collected here demonstrate exactly the same (opposite) thing. Whether talking about violent but rather common *parrèsia*, which was relatively accepted as normal in Byzantine sources (E. Malamut), or ladies with political and/or military power (Lucie Arrighi, Alberto Luongo, Joseph Figliulo-Rosswurm), or even women from the common people (Alberto Luongo, Loek Luiten), the sources testify that women had actually access to ‘virile’ power, and they admit and sometimes even approve of their legal or illegal use of violence. As Alberto Luongo asked, echoing recent publications, how many exceptions do we need to stop considering these cases as ‘exceptional’? The problem is ours, not of the sources, even if they act as gendered filters. A change in paradigm is therefore definitely needed.

We are in fact used to social and political transgression, but only if its function is to denounce disorder and an inversion of social norms. We are accustomed to theoretical transgressions which, as usual, confirm the theoretical frame. Thus, tolerated violations of the norm remain in the realm of literature, legend, myth, biblical history, or poems, or epics (I refer here, obviously, to the texts presented by Nina Soleymani Majd). This is the space where a woman can participate in war, like Penthesilea and her Amazons or Lady Hermengard, where she can kill her children, like Medea, or kill her mother, like Electra, or can behead a conqueror, like Judith. It is in the mythical or legendary narrative that the barriers to the exercise of legitimate or criminal violence are best overcome, with, of course, the caveat that, if she commits criminal violence, the mythical female warrior becomes a paradigm of monstrosity. The exception is Judith, heroine of the elected people, whose figure, it has to be said, is invoked in the Romano-Germanic Pontifical, in the *ordo* for the coronation of the queens. This, of course, was a way to encompass the defensive violence exerted by a woman for her people into the standard of behaviour of female sovereigns.

However, this is not what this volume’s contributions are mostly concerned with. They speak volumes, on the contrary, about real power, individual cases, and ordinary situations. They tell us the story not only of medieval violence and women, not only of male conceptions of violence and women, but also of men documenting violence and women. We initially expected not to find stories of female violence and power, but rather of men denying the existence of female violence by covering it under layers of absence and silence; by refusing to write it down. Ultimately, we started from the assumption that the documentation, controlled by men in this period, would tend to make women’s relations to violence invisible, but this was not the case. Women, and their stories, were found. They had strategies to break the frame, to exist, to have a voice. They were not invisible, and in that world of ‘restricted literacy’ they nevertheless knew the power of judicial documents, records, and letters. With a surprising independence, they participated, according to their rank, in all the processes of domination, and control of land, slaves, and castles, as well as engaging with dynastic networks and diplomatic relations. They defended themselves against abuse, went to court, and even at the lowest and most despised levels of the society they understood consent and how to express it. They knew the social value of justice, when they went to

court to get rid of a trouble maker. They cursed and used verbal harassment just as well as men, and in the same discourteous manner, and got to court to sue their enemies when they were harassed (Carol Lansing). And above all, they acted in quite an independent manner. They used all the possible interstices left by men, and men wrote their actions down (this is perhaps the greatest lesson here: men deigned to write them down; they collaborated to register this female violence, they were not afraid of it).

We have to turn back to our previous discussion of sources and of the ‘linguistic turn’. This astonishing picture is available to historians because the documentation makes it visible, from the twelfth century on, thanks to the ‘revolution of literacy’ that characterised at least the Western world, allowing us to access not only more documentation altogether, but in particular more sources related to daily life, for examples notarial deeds or court records. For previous periods, on the other hand, only legislative sources are available, so as to make the framework on women and violence visible, but not its practical uses. We could assume that such fluidity in the application of the normative frame also existed previously, but there are only precious few clues to suggest so. Let us however notice that even the legal frame, that of rules and laws, is not as gendered as expected, as shown by the case of abortion in Byzantium (Stephanie Novasio). Here, the law did not contribute to the social and collective construction of gendered crimes (and the same could be said about studies on the crime of poisoning in medieval legislation).

From my point of view, almost all contributions here contradict the picture provided by the theoretical frame, not because this frame was absent (historians are not revisionist to this degree), but because the reality of violent or powerful women (violence and power being the same historical object) was not such a heavy burden or threat on social order. On the contrary, as said, aristocratic female power, *parrèsia*, and even legends about mythical female warriors helped in confirming and strengthening the patriarchal order. The clearest expression of this regards the role of medieval female sovereigns as peacemakers, as in the case of Matilda of Tuscany who acted as a mediator between Emperor and Pope in the famous Canossa episode of January 1077. This female diplomatic role was the result of two facts: first, that women were almost always excluded from direct power and sovereignty; second, that they could on the other hand play crucial parts as tools for dynastic alliances. This queenly function did not attest an emancipation, but, on the contrary, a gender-based distribution of roles in a male order.¹¹ That said, even if medieval sources offer numerous exceptions to this model that were not seen as dangerous for the male order, the contributions in this volume help us nuance our expectations regarding the medieval period.

The first of these nuances concerns the possibility of overcoming a model of female power based on individual elite women. It is obvious that the most famous and recurring situations of female use of legal violence concern aristocratic women who occasionally acted on behalf of absent spouses. Regent sovereigns, widows, heiresses, all of them had access to power and its legal violent expressions because in their specific situation social, dynastic, and familial order were prioritised over what was seen as the natural and juridical subservience of

women. These women, individually and temporarily, were able to validate, in the name of a male-dominated power structure, forms of female violence which consolidated the social order by demonstrating its superiority upon the natural order, itself dominated by men. These women acted like men and did precisely what was expected from them, but their temporary access to power and legitimate violence did not confer upon them, individually, neither a specific quality nor virtue. This challenged conceptions of neither their gender nor their institutional roles. Indeed, there is no equivalent, in medieval collective institutions (such as the Italian communes), of such a temporary devolution of power and violence to women. This situation only made sense within aristocratic systems of power, since they were personal but at the same time based on a network of personal relationships. However, some situations analysed in the contributions of this volume challenge the idea of an aristocratic monopoly of female violence in the Middle Ages. On the one hand, they do so by highlighting cases of violent and powerful women who did not belong to the social élite. On the other hand – in an even more interesting and disturbing way – they also show how groups of violent women, in particular in communal contexts, asserted themselves through the mechanism of public violence. These women did not act on behalf of a missing or absent man, and their example proves that women could conquer a function in interstitial places of violence and power. As they do not represent exceptional cases, these examples encourage us not to confuse power and public expression of power. During the Middle Ages, a para-institutional space existed that could challenge our conceptions of government as well as our categories of public/private, and allow a special space for a counter-power, in the margins of the society which are, like violence itself, the voice of the voiceless ones.

The second nuance to existing models provided by this volume is that some of the transgressions of the theoretical frame were evaluated positively by the documentation and therefore, as said, by the men who deigned to write them down. These positive transgressions include for instance the case of the aristocratic lady – a not so exceptional role, to the point of being almost standardised – but also that of the virago,¹² sometimes hailing from the popular classes (Alberto Luongo), or of the female warrior, be it a friend or a foe of the protagonist (Nina Soleymani Majd); or, again, in the Christian world, of the female saint. In some specific situations and contexts, gender issues are neutralised, insofar as female and male roles are allowed to coincide, without any sense of transgression, to the point of allowing for an acceptable and even positive female violence. Such situations are not only contexts of writing (history, narrations, epics, myths, hagiography), but also contexts of transgression. In these contexts, therefore, women could enact behaviours normally exclusively associated with men, without perverting their nature.

The third nuance provided by the volume can be found in situations, which do actually not break the theoretical frame, but rather the model of gender roles. Let us observe, in Nina Soleymani Majd's article, the concept of *furor* in Medieval literature. *Furor* is at the same time an expression of an exclusively male heroism, and an excessive behaviour, close to madness.¹³ Female *furor* is generally associated only to madness, but some examples reflect the possibility for women

to attain heroic *furor*, that is to say the male form of it, without becoming men. In this frame feminine and masculine may coexist inside a character qualified as 'woman'. The medieval boundaries of gender were therefore much more porous and much less binary than is often assumed.

The issue of the relationship between women and violence, as all issues related to women, is located at the crossroads between two realities: male domination and gender distinction. The first one is the everlasting and perpetual structuring principle of almost all known societies in human history. The stable presence of this male domination lures us to believe in the continuity of social phenomena regarding women, as well as the linear progression of the female situation – in fact we assume that in the present we have overcome this medieval law of male domination which was seen as enrooted, at least in the Christian world, in the theology presented by the Bible and in particular of Genesis, and was thus considered an eternal and most compelling truth. The second reality, on the contrary, is more complex, and bears the stamp of a deep discontinuity between the Middle Ages and our times. Beyond the biological distinction between women and men, medieval understandings of gender distinctions remained linked to the Hippocratic theory of the four humours in the human body (cold, warm, dry, wet), so that each individual was a combination, unique but changing over the course of a lifetime, of these four elements. If the combination of warm and dry was supposed to define masculinity, and that of wet and cold femininity, children and elderly were seen as closer to feminine, no matter what their biological sex was. This theory of the four humours allowed for a more fluid conception of masculinity and femininity, since in this system effeminate men were a clearly contemplated possibility, as were the fact of seeing old women and men as physically similar, or of considering female nurses as particularly excellent if they looked like men (for instance, because they were endowed with a large neck and great physical strength).

The trouble that the sources create for our expectations may come from the fact that, lured as we are by the seeming continuity of male domination, but also by the idea of its historical and linear weakening, we are not attentive enough to the clear break between the Middle Ages and our times, concerning not sexual differences, which are biological and binary, but gender distinctions, which are fluid and evolving. In fact, the mismatch of our expectations is perhaps linked to the diverse modalities used to elaborate categories of masculinity and femininity.

We have thus to go back to the few postulates presented at the beginning of these conclusive remarks. I started from the idea that the relationship of women to violence was considered from the point of view of the male/female opposition. Does this mean that the presence of some sort of 'third sex' might be able to remodulate this binary opposition? I am referring in particular to the eunuchs of the Muslim and Byzantine worlds. How should we conceptualise their specific freedom of speech, their relationship to war, power, crime and violence, or their function as intermediaries in the violence between the social components and within the pair man/woman, as demonstrated by the *Life of St Euthymius*, in which a eunuch

speaks to the Patriarch on behalf of Empress Zoé Karbonopsina, or by the help provided by another one to Anna Comnena with reading books? This could be the starting point of new explorations beyond the frontiers of Western medieval history, which would allow for a comparative analysis of power structures and forms of social domination based on sexual categories.

Abandoning an exclusive Western point of view questions the role of intellectual context and religious frameworks in constructing stereotypes about relationships between women and violence. Elisabeth Malamut's analysis on feminine *parrèsia*, by starting from the pre-Christian significance of this word, points out the transformations to this concept introduced by Christianity by connecting *parrèsia* to sanctity. Since sanctity bestows upon individuals a right of *parrèsia* towards emperors, and since sanctity is equally accessible to men and women according to Christian theology, holy women had an equal right to address violent, direct speeches to the Emperor. However, the silence of the sources regarding the religious or intellectual framework of most of the cases studied in this volume urges us not to limit our analysis to religious faith, but to also include intellectual and philosophical frameworks. For example, is it possible to examine if there was a relationship between the idea of abortion as a female crime, and the Aristotelian conception of foetus? What can be said about the Virgin Mary as a model for women, as way to confine them in models of behaviour focused exclusively on innocence, purity, and motherly qualities? Can we connect the ability of sex workers to establish publicly what was and was not consent in sexual intercourse on their part, to the global rehabilitation of prostitution as a professional activity at the end of the twelfth century? This period witnessed the rehabilitation of work and money in Christian theology, a sort of theological 'aggiornamento' which might have concerned also prostitutes (and academic scholars, who were included in the same working category of 'mercenaries').

Gender distinctions and, consequently, female access to power, violence, and to protection against violence, are undoubtedly based upon the religious and intellectual conception of gender and sex difference. In other words, if the male domination of women is an anthropological fact, the relation between women and violence, even from the male point of view, is a historical one that assumes that medieval Christianity (the Western as well as the Eastern variety) presented specificities bound to its religious background. In our case, the primary framework is political. Violence is always a political matter: either as the way to submit someone else's freedom and independence (male violence upon women), or as the power of those who are deprived of any power, and the voice of those who have no right to speak publicly (female violence). Thus the relation between women and violence relies on the religious and intellectual construction of notions of power. This is the major lesson that can be learnt from Theophano's speech to Emperor Leo VI, with which these reflections have begun, and with which I will end them. I previously asked why it would be efficient and convincing to let a violent female *parresia* explain to an emperor's son that he has to submit to his father. Why a voiceless and powerless individual should be adequate to teach a man promised to the highest power that he must bow his head? Perhaps because

in the Christian conception of power, the highest power is bound to the highest humility. The key word here is the Greek *metanoia*, which can signify conversion as well as reversal.¹⁴ It implies that those who are the weakest in this world and who have no right nor access to power, either by choice (monks, holy men, and women) or by nature (women and, above all, virgins),¹⁵ may also be the best instrument of God to teach conversion and humility to those whom God gave, temporarily, the highest power. Humility and submission to them are also the best way to learn to be a sovereign; that is, to submit to God's will.¹⁶

To let women have a special relationship with violence, as weak human beings, is a way to confirm the male domination upon them as a basis for social order and stability (and this is still the case nowadays). This was also, in medieval Christianity, a way to put them at the node of salvation. Female violence was as well, and finally, a space for expression of a gender fluidity that contradicts all our expectations and conceptions based on a rigid, biologically determined binary system of sexual distinction.

Notes

- 1 See for instance Phipps 2020.
- 2 Peters-Custot 2012.
- 3 Rostaing 2017.
- 4 See for example Poirson 2020 and particularly, for Medieval times, Gauvard 2020.
- 5 Guérin 2014.
- 6 Women constituted one-third of the prisoners in 1835s France. In 1875, they were one-fifth (Petit 1991, p. 142), and in present-day France, less than four percent (Rostaing 2017).
- 7 Rostaing 2017.
- 8 Duby 1988; see also the analysis of the American reception of this book, ten years after its publication, in Livingstone 1998.
- 9 Saïd 1978; see also Delouis 2003 for excellent passages on the hyper-sexualised power characterising an Empire that, indeed, occasionally gave power to women.
- 10 Olympe de Gouges (1748–1793), one of the most active and brilliant female protagonists of the French Revolution, urging for the political equality between men and women, was the author of this very famous sentence: 'La femme a le droit de monter sur l'échafaud ; elle doit avoir également celui de monter à la Tribune' ('a woman has the right to climb onto the scaffold, she must also have the right to stand up in the House'). Author of the 'Declaration of the rights of the women and female citizen' in 1791, she was detained for her polemical pamphlets, condemned and beheaded. Interestingly, Robespierre said about her that she was neither a woman, nor a man, but a monster.
- 11 Similarly, when the UN president or the former US president Jimmy Carter are urging for a more important participation of women in diplomatic processes for peace, they are making reference to this very male framework of domination and to stereotypes about women and power.
- 12 Helvetius 1999.
- 13 *Quos vult perdere Jupiter, dementat prius . . .*
- 14 Dalarun 2012, especially the Introduction.
- 15 Poor virgins are considered the best political advisors in crisis time. Joan of Arc is only one of those young women whose weakness was the reason of their prophetic gifts.
- 16 Dagron 1994; Dagron 1996.

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